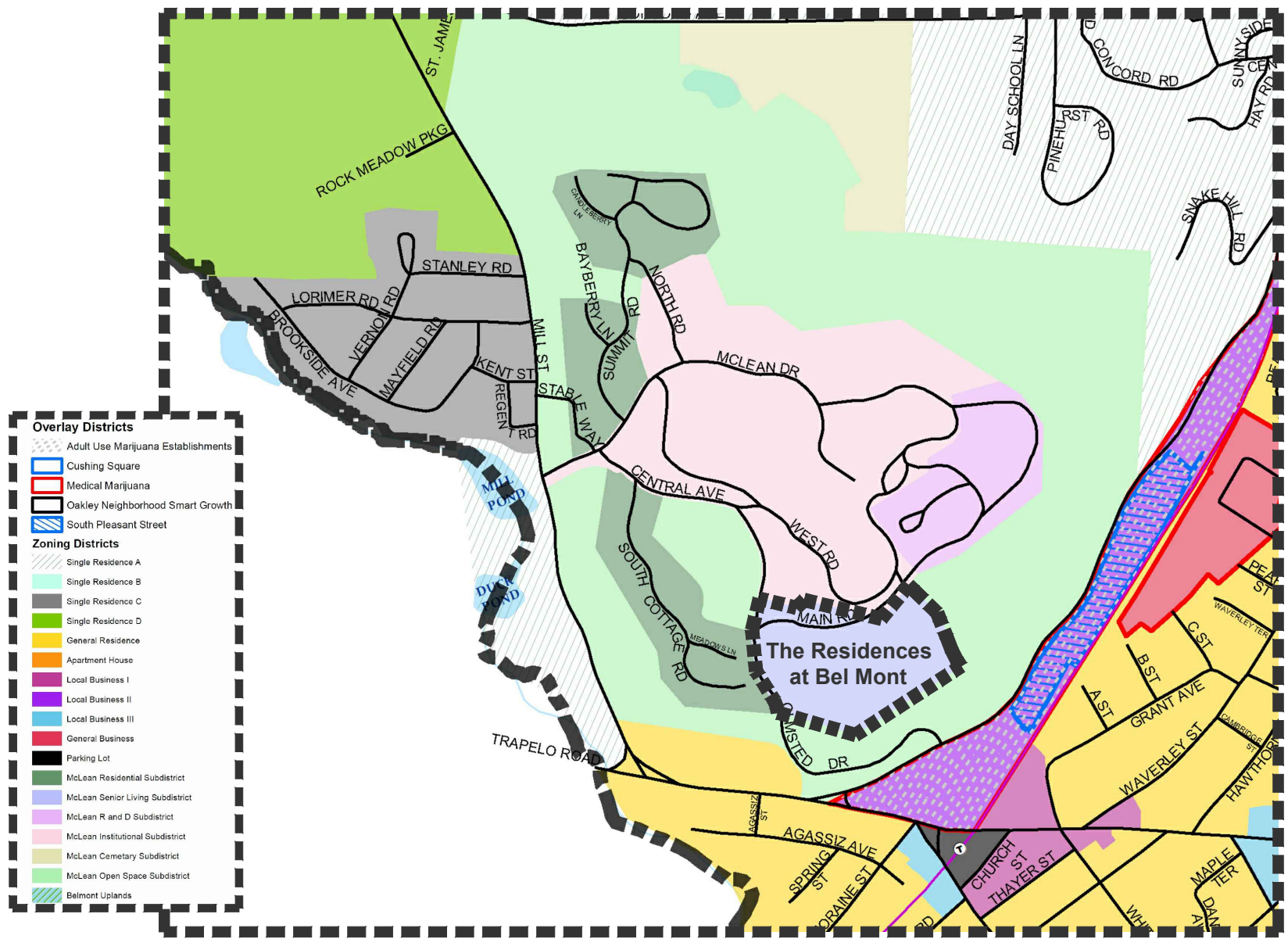


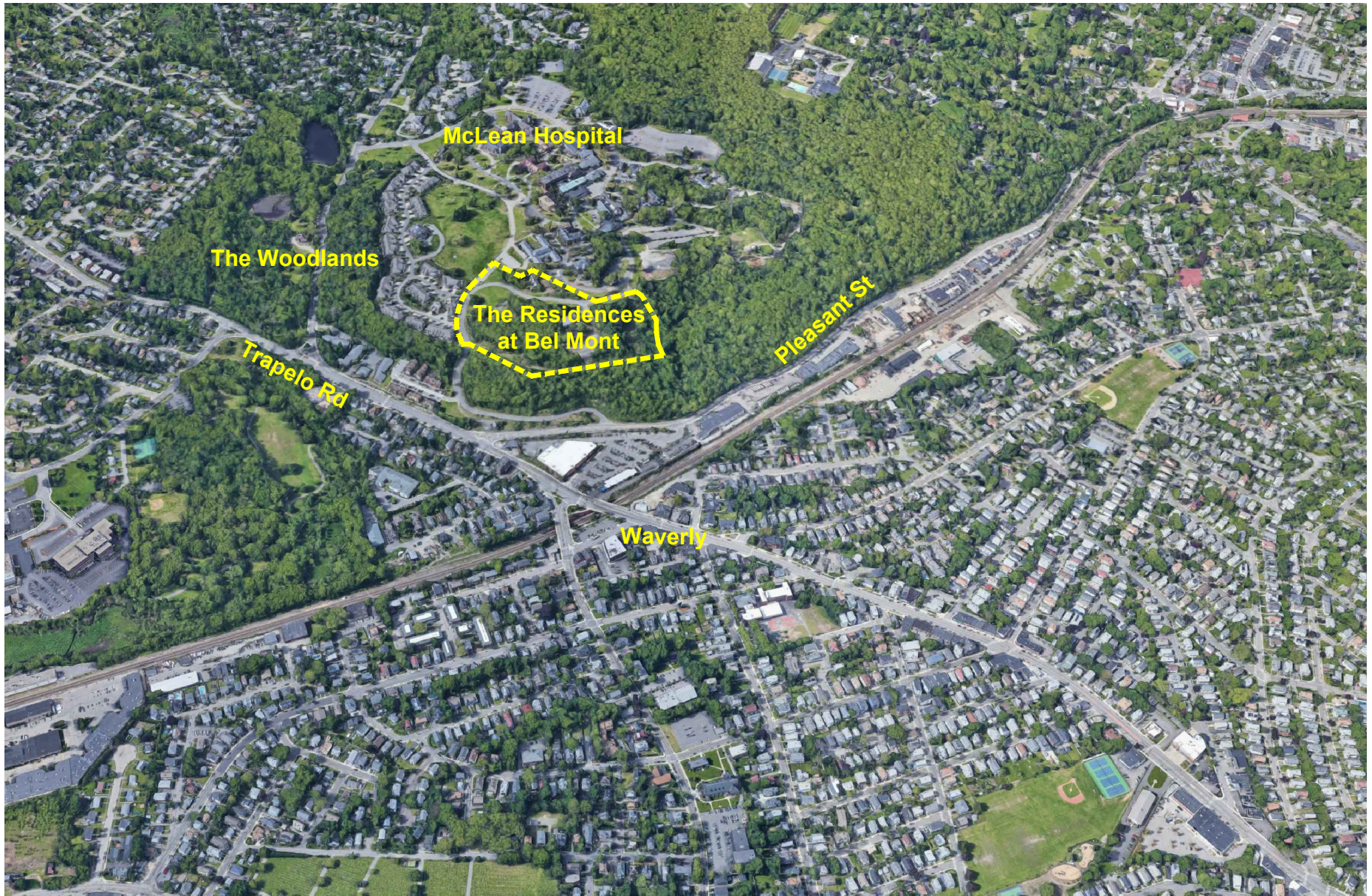
## McLean Zone 3: The Residences at Bel Mont

### Belmont Zoning Map: Overall



McLean Zone 3: The Residences at Bel Mont

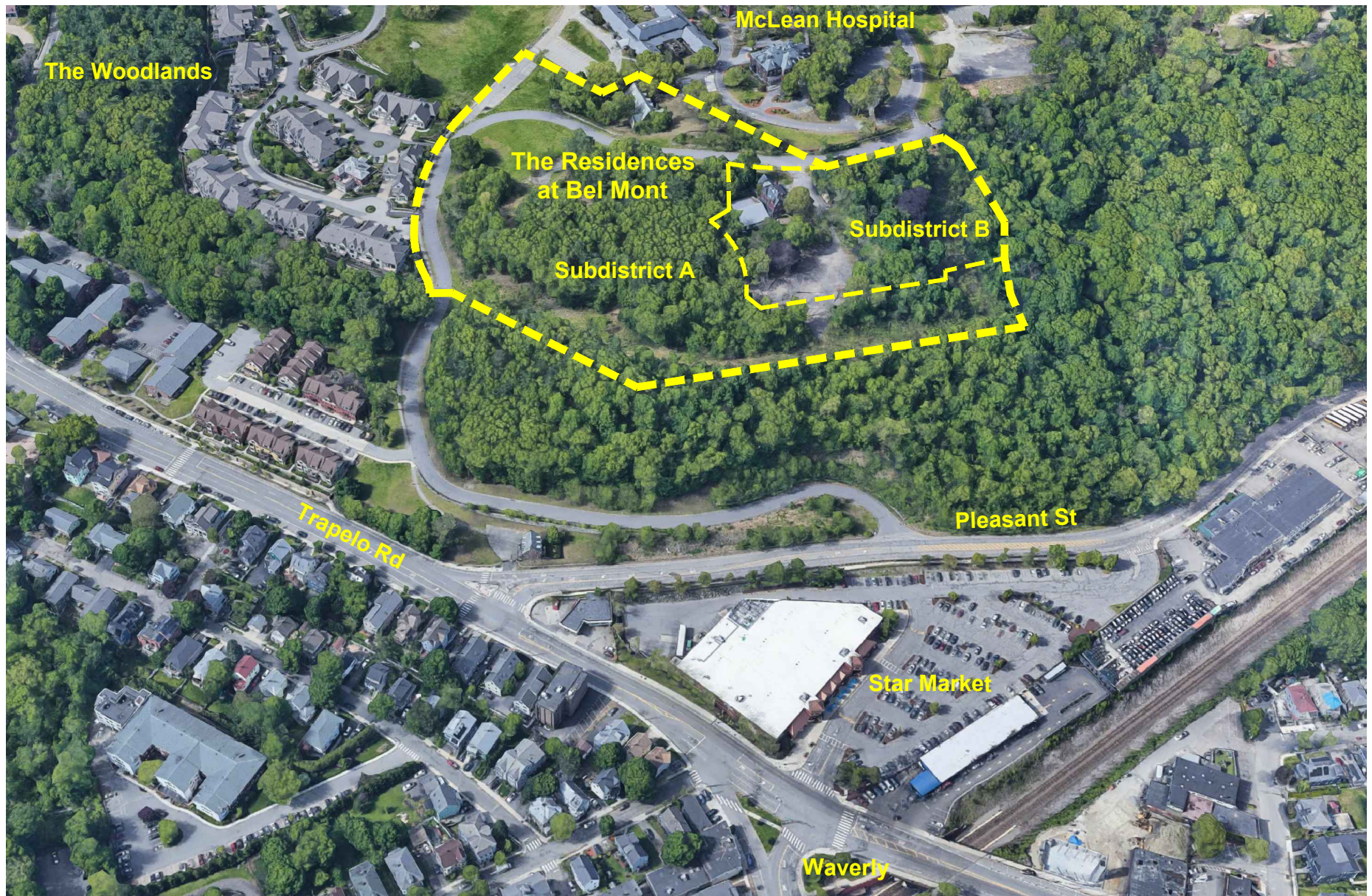




McLean Zone 3: The Residences at Bel Mont

Locus Map: Overall





McLean Zone 3: The Residences at Bel Mont

Locus Map: Detail



# McLean District and General Residential District

## Legend - Zoning Subdistricts & District

Zone One	Residential Subdistrict	15.02 acres
Zone Two	Residential Subdistrict	11.18 acres
Zone Three	Senior Living Subdistrict	12.83 acres
Zone Four	Research & Development Subdistrict	11.58 acres
Zone Five	McLean Institutional Subdistrict	46.17 acres
Zone Six	General Residential District	1.34 acres
<b>SUBTOTAL:</b>		<b>98.12 acres</b>

Conservation Buffer	McLean Institutional Subdistrict	2.83 acres
Town Cemetery	Cemetery Subdistrict	13.91 acres
Public Open Space	Open Space Subdistrict	105.70 acres
Private Open Space	Open Space Subdistrict	18.16 acres
<b>SUBTOTAL:</b>		<b>140.60 acres</b>
<b>TOTAL:</b>		<b>238.72 acres</b>

Vehicular Access Easement

**PUBLIC  
OPEN SPACE**

4.58 acres

**PUBLIC  
OPEN SPACE**

101.12 acres

**TOWN  
CEMETERY**

13.91 acres

**PRIVATE  
OPEN SPACE**

2.79 acres

**PRIVATE  
OPEN SPACE**

(SOCCER FIELD)

1.46 acres

**ZONE 1A**

8.81 acres

**ZONE 1B**

6.21 acres

**PRIVATE  
OPEN  
SPACE**

8.44 acres

**ZONE 5**

46.17 acres

**100'  
BUFFER**

2.83 acres

**PRIVATE  
OPEN  
SPACE**

(UPHAM BOWL)

5.47 acres

**ZONE 4**

11.58 acres

**ZONE 2**

11.18 acres

**ZONE 3**

12.83 acres

**ZONE 6**

1.34 acres

PERMANENT  
ACCESS  
EASEMENT



NORTH

GRAPHIC SCALE  
0 100' 300' 600'



1 ACRE

March 1, 1999

**The Keefe  
Company**

IN ASSOCIATION WITH:

# McLean District Zoning Map

Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic



**WARRANT ARTICLE FOR THE 2020 SPECIAL TOWN MEETING - SEPTEMBER 21, 2020**

Amendment to the McLean Zoning District  
August 26, 2020

1. To see if the Town will vote to amend the Zoning By-Law by re-numbering the existing Section 6B (and its subsections), 'Belmont Uplands District', as Section 6H and inserting a new Section 6B, 'McLean District Zone 3 Overlay District', as follows:

- a) Re-number the existing Section 6B, 'Belmont Uplands District', as Section 6H:

**SECTION 6B 6H. BELMONT UPLANDS DISTRICT**

- b) Insert a new Section 6B, 'McLean District Zone 3 Overlay District':

**SECTION 6B. McLEAN DISTRICT ZONE 3 OVERLAY DISTRICT**

**6B.1 General**

6B.1.1 Purposes:

This Section 6B is intended to permit well-designed, mixed-use residential housing consisting of detached townhouses and multi-family dwelling units within Zone 3, the Senior Living Subdistrict of the McLean District, so as to:

- a) Provide for the housing needs of the Town by making provisions for housing to be occupied by a variety of households who otherwise would not have such housing opportunities within the Town.
- b) Provide added diversity of housing types attractive to a variety of households and income eligibility.
- c) Provide for the development of affordable housing for income-eligible households and seniors.
- d) Promote low-impact, energy-efficient development.
- e) Ensure high quality site planning, architecture, and landscape design that is consistent with the distinct visual character, historical significance, and identity of the McLean District.
- f) Establish development standards that ensure context-sensitive design and creative site planning in the construction of new buildings and reuse of existing buildings.

6B.1.2 Siting and Boundaries of McLean District Zone 3 Overlay District

The McLean District Zone 3 Overlay District ("MDZ3OD") shall consist of two Subdistricts: A and B. Subdistrict A shall permit the development of Age-Restricted Townhouse Dwelling Units and Subdistrict B shall permit the development of both Age – Restricted and Non-Age Restricted Multi-Family Rental Dwelling Units.



## **WARRANT ARTICLE FOR THE 2020 SPECIAL TOWN MEETING**

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The boundaries of the MDZ3OD and Subdistricts A and B are shown on the Zoning Map on file with the Town Clerk and include the underlying Zone 3, the Senior Living Subdistrict of the McLean District.

### **6B.1.3 Applicability and Authority**

The MDZ3OD shall be considered as overlaying the existing Senior Living Subdistrict of the McLean District, Section 6A of the Zoning By-Law. The MDZ3OD provides for an additional development option to be employed at the discretion of the property owner(s), subject to the requirements of Design and Site Plan Review in accordance with Section 6B.6.

Within the MDZ3OD, all requirements of the underlying Senior Living Subdistrict shall remain in effect, except where this Section 6B provides an alternative to such requirements. Land within the MDZ3OD may be used either for uses as set forth in this Section 6B or a use allowed in the underlying Senior Living Subdistrict, in which case the requirements of the underlying Senior Living Subdistrict shall apply and this Section 6B shall not apply.

### **6B.2 Use Regulations**

The following is permitted in the MDZ3OD Subdistricts:

#### **6B.2.1 Subdistrict A – Age-Restricted Townhouse Dwelling Units**

- a) The maximum number of dwelling units that may be developed shall be 40, provided however that up to two additional dwelling units may be created as provided in Subsection 6B.2.4.
- b) Permissible housing types shall be attached or detached townhouse dwelling units. Dwelling units shall be contained in groupings of one- to four-unit buildings.
- c) Dwelling units shall be developed as an owner-occupied condominium.
- d) Age-Restriction - Occupancy of dwelling units shall be limited to any of the following:
  1. An Age-Qualified Occupant (a person who is 55 years of age or older) may reside in a unit;
  2. A spouse or domestic partner under 55 years of age (a Non-Age Qualified Occupant) of an Age-Qualified Occupant may reside in the Age-Qualified Occupant's unit;
  3. A Non-Age Qualified Occupant where the Age-Qualified Occupant has moved out of the unit and into a long-term care facility may continue to reside in the Age-Qualified Occupant's unit;
  4. A child or sibling of an Age-Qualified Occupant or a Non-Age Qualified Occupant who is dependent upon said Age-Qualified Occupant or a Non-Age Qualified Occupant may continue to reside in the Age-Qualified Occupant's unit; and



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5. A paid caregiver providing medical or health care to an occupant who is permitted under this Subsection 6B.2.1 (d) may continue to reside in the Age-Qualified Occupant's unit.
6. Should the Age-Qualified Occupant predecease the Non-Age Qualified Occupant and resident dependent child, the Non-Age Qualified Occupant and dependent child may continue to reside in the Age-Qualified Occupant's unit, pursuant to Subsection 6B.6.4.

### **6B.2.2 Subdistrict B – Multi-Family Rental Housing Dwelling Units**

- a) The maximum number of dwelling units that may be developed shall be 110, with a mix of studios, one-, two-, and three-bedroom dwelling units; provided, however, that up to two additional dwelling units may be created as provided in Subsection 6B.2.4.
- b) Of the 110 dwelling units, 57 shall not be age-restricted and the remainder shall be subject to the Age-Restriction of Subsection 6B.2.1 (d).
- c) Permissible dwellings shall be two apartment buildings with associated underground or surface parking. An apartment building is a multi-story, multi-family building designed or intended or used as the home or residence of three or more households, each in a separate dwelling unit, living independently of each other and which have a common right in halls, stairways, parking, and common area amenities.
- d) A pool, clubhouse, and other community facilities (such as but not limited to a community room, gym, library, business center, pet washing center, rooftop deck, maintenance building, trash/recycling facility) may be allowed as accessory uses, provided that such facilities shall not made be available to people other than residents of Subdistricts A and B and their visitors.

### **6B.2.3 Existing Access Limitations**

The access limitations contained within Section 6A.3.3 of the Zoning By-Law shall apply to the MDZ3OD. Vehicular access to the Residential Subdistricts and the McLean Institutional Subdistrict shall be via Mill Street, except in case of emergency access. Vehicular access to the Senior Living Subdistrict, the Research and Development Subdistrict, and the MDZ3OD shall be via Pleasant Street, except in case of emergency access.

Shuttle bus access may be allowed between Zones within the McLean District provided that McLean Hospital and the homeowner associations from each of the Zones that the shuttle bus passes through enter into a written agreement allowing for such access.

### **6B.2.4 Reuse of the Chapel Building**

A bonus density of two dwelling units shall be granted based on rehabilitation and reuse of the Chapel Building, provided that its rehabilitation and reuse is consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation, subject to review as defined in Subsection 6B.5.1. Such units may be constructed within either



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Subdistrict or both, subject to Sections 6B.2 and 6B.3 and excluding Section 6B.4 and provided that the total number of additional units does not exceed two. If the bonus units are located in Subdistrict B, the units shall be non-age-restricted. The total square footage and bedroom count limitation of the bonus units shall not count towards the total allowed square footage and/or bedroom count within that designated Subdistrict.

### **6B.3 Performance and Design Standards**

All development projects proposed within the MDZ3OD shall require Design and Site Plan Review by the Planning Board, as provided for in Section 6B.6, to ensure conformance with the following Performance and Design Standards (unless waived by the Planning Board as provided herein):

#### **6B.3.1 Subdistrict A - Performance and Design Standards:**

- a) No townhouse dwelling unit shall consist of more than three bedrooms and the average number of bedrooms for all units in Subdistrict A shall not exceed 2.6 (rounding up). Any separate room in any unit that is not a living room, home office/den, or an equipped kitchen and is shown on a plan as being for other than bedroom use but which, because of location, size, or arrangement, could be used or adapted for use as a bedroom shall be considered as a bedroom for purposes of this provision. No attic, loft, or other storage or similarly usable space shall be used as, or altered to, create bedroom space, nor shall the design or construction facilitate such use or alteration.
- b) No townhouse dwelling unit shall exceed 3,600 square feet of Gross Floor Area, inclusive of basement area whether or not finished but exclusive of unfinished garage, unfinished attic area and exterior porch or deck areas. No townhouse dwelling unit shall exceed 2,400 square feet of living area, exclusive of any basement area, unfinished garage, unfinished attic area, and exterior porch or deck areas. A total Gross Floor Area of 144,000 square feet is allowed based on 40 dwelling units of new construction, excluding the dwelling units allowed under Subsection 6B.2.4.
- c) Setbacks, Height.

<b><u>Minimum Setbacks (Feet)</u></b>			<b><u>Maximum Height</u></b>	
<b><u>Front</u></b>	<b><u>Side</u></b>	<b><u>Rear</u></b>	<b><u>Feet</u></b>	<b><u>Stories</u></b>
<u>10</u>	<u>10</u>	<u>10</u>	<u>36</u>	<u>2.5</u>

- 1. Minimum setback shall be from the buildings to the Zone 3 Subdistrict boundary line. No parking areas may be placed within such setbacks.
- 2. For the purposes of this Subsection 6B.3.1, each townhouse dwelling unit shall be considered a separate building for the purpose of determining Height hereunder. For the purposes of only this Subsection 6B.3.1 (c), "Height" shall mean the vertical distance from the average finished grade adjoining the building at all exterior walls to



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the highest point of the roof. No flat or shed roofs shall be allowed on buildings or building elements of more than one story.

- d) Retaining walls shall be no higher than ten feet.
- e) Fences shall be no higher than four feet.
- f) Minimum open space shall be 40% of lot area. Maximum lot coverage shall be 30% of lot area. Maximum impervious surface coverage shall be 60% of lot area. For the purposes of this Section 6B, "impervious surface coverage" shall mean the total area of all surfaces including buildings, parking lots, driveways, and sidewalks that reduce or prevent the absorption of stormwater into land.
- g) No more than two parking spaces shall be allowed per dwelling unit (including any dwelling unit designated to be in Subdistrict A under Subsection 6B.2.4), consisting of a mix of surface and garage parking spaces, plus no more guest/visitor spaces than three-tenths (.3) times the number of townhouse dwelling units (rounding up). Parking spaces shall only be used by residents of Subdistrict A and their visitors and guests.

### 6B.3.2 Subdistrict B - Performance and Design Standards:

- a) A maximum of 10% of the total number of units shall be set aside for 3-bedroom units. The mix of smaller units shall be consistent with the purposes of Subsection 6B.1.1.
- b) A total gross floor area of 250,000 square feet shall be allowed based on 110 dwelling units of new construction, excluding the dwelling units allowed under Subsection 6B.2.4.
- c) Setbacks, Height.

<b><u>Minimum Setbacks (Feet)</u></b>			<b><u>Maximum Height</u></b>	
<b><u>Front</u></b>	<b><u>Side</u></b>	<b><u>Rear</u></b>	<b><u>Feet</u></b>	<b><u>Stories</u></b>
<u>10</u>	<u>10</u>	<u>10</u>	<u>58</u>	<u>5</u>

- 1. Minimum setback shall be from the buildings to the Zone 3 Subdistrict boundary line. No parking areas may be placed within such setbacks.
- 2. For the purposes of only this Subsection 6B.3.2 (c), "Height" shall mean the vertical distance from the average finished grade adjoining the building at all exterior walls to the highest point of the roof (including all rooftop mounted mechanical equipment). No flat or shed roofs shall be allowed on buildings or building elements of more than one story.
- 3. For the purposes of determining the Height of a building in Subdistrict B, if and only if the lowest floor of the building is used for parking, then an alternative Height limit shall be applied: the vertical distance from the average finished grade adjoining the building on the side that has the highest average grade to the highest point of the roof shall not exceed 58 feet and the vertical distance from the average finished



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grade to the highest point of the roof shall not exceed 68 feet. For buildings using this alternative Height limit, a floor having a ceiling elevation at or below the average finished grade adjoining the building on the side that has the highest average finished grade shall not be considered a story.

- d) Retaining walls shall be no higher than ten feet.
- e) Fences shall be no higher than four feet, except where the State Building Code(s) require otherwise.
- f) Minimum open space shall be 30% of lot area. Maximum lot coverage shall be 40% of lot area. Maximum impervious surface coverage shall be 70% of lot area.
- g) No more than 1.5 parking spaces shall be allowed per dwelling unit (rounding up) (including any dwelling unit designated to be in Subdistrict B under Subsection 6B.2.4), consisting of a mix of surface and garage parking spaces. Parking spaces may be located in a parking garage(s) located beneath the building(s); however, surface parking spaces for resident, management, staff, deliveries, and guests may be located outside the building.
- h) Bicycle parking or bike storage spaces shall be provided at the ratio of at least one-half (.5) space per dwelling unit (rounding up) (including any dwelling unit designated to be in Subdistrict B under Subsection 6B.2.4). At least 80% of the minimum required bicycle parking spaces shall be covered (rounding up). The spacing of all bicycle parking shall be 30" on center minimum.

### **6B.4 Affordability Requirements**

The Applicant for a Design and Site Plan Approval under this Section 6B shall provide for a number of dwelling units to be made available as low- and moderate-income housing units ("Affordable Housing Units") as defined in M.G.L. c40B (or successor statutory provision) and shall qualify as Affordable Housing included in the Subsidized Housing Inventory ("SHI") (or successor counting mechanism) under applicable regulations of the Massachusetts Department of Housing and Community Development ("DHCD") or other applicable legal authority ("Administering Agency").

#### **6B.4.1 Subdistrict A - Number of Affordable Housing Units:**

- a) 15% of the townhouse dwelling units, excluding units created subject to Subsection 6B.2.4, shall be affordable to income-eligible households at or below 80% Area Median Income ("AMI").
- b) Where the calculation of Affordable Housing Units results in a fractional unit greater than one-half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation of Affordable Housing Units results in a fractional unit less than or equal to one-half (.5), the fraction shall be rounded down to the next whole unit.



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### **6B.4.2 Subdistrict B - Number of Affordable Housing Units:**

- a) 25% of the aggregate number of dwelling units in Subdistrict B, including units created subject to Subsection 6B.2.4, shall be affordable to income-eligible households as follows:
  - 1. 20% of the dwelling units shall be affordable to income-eligible households at or below 80% of AMI, and
  - 2. 5% of the dwelling units shall be affordable to income-eligible households at or below 50% of AMI.
- b) The affordable units shall be divided proportionally between age-restricted and non-age restricted units.
- c) Where the calculation of Affordable Housing Units results in a fractional unit equal to or greater than one-half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation of Affordable Housing Units results in a fractional unit less than one-half (.5), the fraction shall be rounded down to the next whole unit.

### **6B.4.3. General:**

- a) All Affordable Housing Units shall be comparable to the market rate dwelling units in initial construction quality and design. However, nothing in this Section 6B is intended to limit a homebuyer's rights to renovate a dwelling unit under applicable law.
- b) The mix of bedrooms in the Affordable Housing Units shall, insofar as practicable, be the same as the mix of bedrooms in all units in the Subdistrict.
- c) Affordable Housing Units shall be dispersed throughout the building(s) and shall be comparable to Market-Rate Housing Units.
- d) The Affordable Housing Units shall have the same access and terms of use to all on-site amenities and services as other occupants in the same Subdistrict.
- e) All Affordable Housing Units shall be constructed and occupied not later than concurrently with construction and occupancy of unrestricted units. For any development that is approved in phases, the proportion of Affordable Housing Units shall be consistent across all phases.

### **6B.4.4 Monthly Housing Payment:**

- a) In Subdistrict A. For an Affordable homeownership Housing Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and homeowner's association fees, insurance, and parking, shall not exceed 30% or such other ratio or criteria established by DHCD, or its successor agency, of the maximum monthly income permissible for an income-eligible household.

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assuming a family size equal to the number of bedrooms in the townhouse dwelling unit plus one.

- b) In Subdistrict B. The monthly rent payment for an Affordable rental Housing Unit, including utilities and parking, shall not exceed 30% or such other ratio or criteria established by DHCD, or its successor agency, of the maximum monthly income permissible for an income-eligible household, with price determined assuming a family size equal to the number of bedrooms in the unit plus one unless other affordable program rent limits approved by DHCD shall apply.
- c) Affordable Housing Units required to be offered for rent or for sale shall be rented or sold to and occupied only by income-eligible households.

### 6B.4.5 Affordable Housing Restriction.

Each Affordable Housing Unit shall be subject to an affordable housing restriction which is recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County. The affordable housing restriction shall provide for the implementation of the requirements of this Section 6B.4. All affordable housing restrictions shall include, at minimum, the following:

- a) A description of the development, including whether the Affordable Housing Unit will be rented or owner-occupied.
- b) A description of the Affordable Housing Unit by address and number of bedrooms.
- c) A statement that the term of the affordable housing restriction shall be in perpetuity.
- d) The name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction.
- e) Reference to a housing marketing and resident selection plan, to which the Affordable Housing Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size.
- f) A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of income-eligible households compiled in accordance with the housing marketing and selection plan.
- g) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set.
- h) A requirement that only an income-eligible household may reside in an Affordable Housing Unit and that notice of any oral or written lease, sublease, or grant of



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occupancy rights of any Affordable Housing Unit to another income-eligible household shall be given to the Administering Agency.

- i) Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency.
- j) A provision that the restriction on an Affordable homeownership Housing Unit shall run in favor of the Administering Agency and the Town of Belmont, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an income-eligible household.
- k) A provision that the restriction on Affordable rental Housing Units in a rental development shall run with the rental development and shall run in favor of the Administering Agency and the Town of Belmont, in a form approved by municipal counsel, and shall limit rental and occupancy to income-eligible households.
- l) A provision that the owner(s) or manager(s) of affordable rental unit(s) shall file an annual report with the Administering Agency, in a form specified by that Agency certifying compliance with the provisions of this Section 6B.4 and containing such other information as may be reasonably requested in order to ensure affordability.
- m) A requirement that residents in Affordable Housing Units provide such information as the Administering Agency may reasonably request in order to ensure affordability eligibility and compliance.
- n) Designation of the priority of the affordable housing restriction over mortgages and other liens, and encumbrances.

### 6B.4.6 Administration

The Administering Agency shall ensure that:

- a) Prices for all Affordable Housing Units are properly computed.
- b) Income eligibility of households applying for Affordable Housing Units is properly and reliably determined.
- c) The housing marketing and resident selection plan conforms to all requirements and is properly administered.
- d) Sales and rentals are made to income-eligible households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given.
- e) Affordable housing restrictions meeting the requirements of this Section 6B.4 are recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County.

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The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of income-eligible households, to conduct the housing lottery, and to monitor and enforce compliance with affordability requirements.

### **6B.5 Design Guidelines**

#### **6B.5.1 General Guidelines**

The Planning Board shall consider the architectural and aesthetic compatibility of the proposed development project with the character of the Town of Belmont, the McLean Hospital Campus, the Open Space Subdistrict, and Lone Tree Hill, taking into account appropriate scale, massing, and location of buildings on the lot, roof slopes, exterior building materials, site topography, historic significance, and similar factors.

The following objectives and criteria shall be considered in reviewing development projects in the MDZ3OD:

- a) Appropriateness of the proposed design and materials of proposed buildings;
- b) Impact on traffic and pedestrian flow and safety;
- c) Adequacy of utilities, including sewage disposal, water supply, and stormwater drainage;
- d) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the buildings;
- e) Appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location, and landscape screening of dumpsters and other trash receptacles;
- f) Adequacy of landscaping/site improvements, and
- g) Impact on abutting properties within the Zones 2 and 4, and the Institutional and Open Space Subdistricts of the McLean District.

Consistent with Attachment G: Historic Preservation Agreement of the 1999 Memorandum of Agreement, McLean Hospital, or its developers, will consult with the Town of Belmont Historic District Commission (HDC) regarding the proposed design plans including both architecture and landscape elements.

#### **6B.5.2 Building Design**

The detailed design standards below are intended to promote high quality sustainable development.



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a) Scale

The size and detailing of buildings should be designed to reduce the visual perception of bulk and mass. The façade should have sufficient architectural detail to mitigate issues of scale and to ensure overall aesthetic appearance.

b) Architectural Features and External Materials and Appearance

Predominant wall finishes should be compatible with the existing historic architecture and other structures in the McLean District.

c) Design of Chapel Building

The HDC shall determine if proposed renovation of the historic Chapel Building meets the Secretary of Interior's Standards for Rehabilitation.

### 6B.5.3 Pedestrian, Bicycle, and Vehicle Features

The following pedestrian, bicycle, and vehicle guidelines apply to MDZ3OD development projects:

- a) Buildings and site plans should be designed to enhance the pedestrian environment and foster a walkable built environment.
- b) Reasonable pedestrian connections should be provided within the Subdistricts and to the adjacent zones, including a trail head access to Lone Tree Hill, Belmont Conservation Land.
- c) Benches should be provided at convenient locations throughout the Subdistricts and along Olmsted Drive.
- d) The provision of parking should take into consideration the extent to which the design maximizes pedestrian flow within the development
- e) Underground parking is strongly encouraged in Subdistrict B.
- f) Parking Structures.

The following design guidelines should be considered for projects containing structured parking:

1. Parking structures should be compatible with the proposed building(s) and surrounding neighborhood with regard to architecture, size, scale, intensity, and mass;
2. Access points whenever possible should be on the secondary or side streets, or accessed via a side driveway, versus the primary street frontage;

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3. Exterior landscaping should be provided to screen the structure and mechanical equipment from within each Subdistrict and from Zone 2, the McLean Hospital Campus, and Lone Tree Hill;
4. Entire sides or substantial lengths of the parking structure walls should not be open without suitable fenestration. Design should avoid long runs of openings that do not conform to or replicate window patterns consistent with the primary building; and
5. Architectural articulation should be on all sides of the parking structure and of materials compatible with the primary building.
6. Electric vehicle (EV) charging connectivity and stations should be provided in the garages of each Subdistrict.
  - i. In Subdistrict A - all required connectivity infrastructure for a parking space should be EV-ready for one space at each residential unit. EV-ready is defined as providing capacity and space for a 50A breaker in the main house panel and outline in construction documents for charging station location. Conduit for future connectivity should be provided from the main house panel to the Garage.
  - ii. In Subdistrict B - EV charging stations should be provided for at least 10% of all common parking spaces.

### **6B.5.4 Landscaping and Site Improvements**

The following landscaping and site improvement guidelines apply to the MDZ3OD:

- a) The Applicant should be required to install street furniture (benches, planters, trash receptacles, lamps, signs, and bus shelters) and landscaping and landscape screening within proximity of the proposed development project to promote the development of a pedestrian-oriented building environment that enhances connectivity to Waverley Square and transit stops.
- b) Street furniture should be made of solid wood, metal, or recycled plastic lumber to ease maintenance.
- c) All open space (yards, parking lots, setbacks) should be planted with appropriate plantings or landscaping. Open space should be appropriately usable and open and may consist of landscaped gardens, plazas, sitting areas, sidewalks, or similar features.
- d) Open spaces may be utilized to break up a block of buildings in order to provide visual relief.
- e) Trash receptacles should be provided at all gathering places and should be properly maintained.



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- f) Climate requirements, growth potential, and adaptability to the urban environment should be considered when selecting plant types and species.
- g) Landscaping should be installed to screen dumpsters, transformers, air conditioning equipment, and other similar outdoor mechanical building equipment.
- h) Along the southern boundary of Subdistrict A and the eastern boundary of Subdistricts A and B, to the extent appropriate for density and screening, an area proximate to the boundary should be maintained in an undeveloped and natural condition free of invasive and competitive plant species and enhanced by additional landscaping. Additional landscape buffering may be required along both sides of such boundaries (to the extent permitted by the Town of Belmont Land Management Committee, if on Lone Tree Hill property) to provide visual relief of such structures from view from the adjacent land in the Open Space Subdistrict;
- i) Landscape buffer should be provided between Olmsted Drive as it passes through Zone 3 and the townhouses located in Zone 2 of the McLean District. Buffering should also be provided prior to construction.

### **6B.5.6 Lighting**

The lighting requirements of Section 5.4.3 of the Zoning By-Law shall apply to buildings within a MDZ3OD development project. Lighting should be arranged and designed to minimize visibility of lights and structures from outside MDZ3OD and minimize light spillover beyond each Subdistrict boundary.

### **6B.5.7 Environmental Design**

Purpose: The following guidelines support the Town of Belmont's Climate Action Plan as approved at Town Meeting on November 16, 2009, and its commitment to an 80% reduction in carbon emissions by the year 2050. They are intended to promote environmentally responsible site design and green building principles in order to better manage stormwater, conserve natural resources, and reduce the impact of development on the natural environment.

The Planning Board shall consider the following guidelines:

- a) Buildings within the MDZ3OD should be LEED Silver certifiable, under Version 4 (or later) of the New Construction or Homes Rating Systems by the USGBC.
- b) Buildings should be ready for the installation of photovoltaic panels.
- c) Landscape and Site Development
  - 1. On-site retention of the runoff from the developed site using green infrastructure and low-impact development practices should be considered.
  - 2. Pest concerns should be minimized and the risk of exposure to pesticides through appropriate site design measures should be limited.

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3. A combination of green space, tree canopy, and light-colored hardscape materials to reduce the heat island effect of the project site should be utilized.
4. Invasive plant species should not be introduced to the project site.
5. Turf grass areas should be reduced and native or adapted plant areas should be increased to reduce outdoor water use.
6. Existing healthy, viable trees should be retained.

### **6B.6 Design and Site Plan Review**

#### **6B.6.1 Objectives.**

The objectives of Design and Site Plan Review under this Section 6B.6 shall be to:

- a) Evaluate how well the proposed design meets the purposes of Section 6B.1 and guidelines of Section 6B.5 and, where the Planning Board deems appropriate, require changes;
- b) Determine the adequacy of measures proposed to mitigate construction period impacts on the natural historic features of the site, on neighboring premises, and on the Town roadway system;
- c) Determine the adequacy of measures proposed to mitigate the effects of the development on significant natural, historic, and landscape features of the site, including the sloping topography, preservation of specimen trees, and native woodlands;
- d) Determine that the Environmental Design Standards of Subsection 6B.5.7 have been addressed;
- e) Determine the appropriateness of the proposed design and materials of proposed buildings;
- f) Determine that adequate measures have been taken for the private maintenance and management of the development, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and nontoxic pest control measures;
- g) Determine that the adjoining premises within and outside of the MDZ3OD will be protected against detrimental uses by provision for surface water drainage, sound and light buffers, prevention of undue solar reflection and glare, and preservation of views, light, and air;
- h) Determine that there will be no hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks;



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- i) Determine the appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location, and landscape screening of dumpsters and other trash receptacles;
- j) Determine the adequacy of the lighting, landscape planting, including adequate buffers along Subdistrict boundaries and the removal of known invasive and competitive plant species, and other exterior construction features in relation to the proposed use of the site and the interests of the safety, convenience, and welfare of the public;
- k) Determine the appropriateness of the relationship of proposed structures and open spaces to the natural landscape, existing buildings, and historic campus;
- l) Obtain appropriate evidence of compliance of the proposed development with the applicable requirements of this Zoning By-Law other than this Section 6B; and
- m) Determine that sight lines to and from existing historic structures and landscape features are not adversely affected.

### **6B.6.2 Submittal Requirements**

Applicants seeking Design and Site Plan Review for a MDZ3OD development shall submit 10 copies of the application, and an electronic copy (e.g., pdf), in such form as the Planning Board may require, which shall include the following:

- a) Development plans bearing the seal of a Massachusetts registered professional (architect, landscape architect, civil engineer, or similar professional as appropriate);
- b) Narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used;
- c) Site plans and specifications showing total square footage and dimensions of all buildings and site improvements, including:
  - 1. New buildings, additions, adjacent structures;
  - 2. Streets, sidewalks, and crosswalks;
  - 3. Existing and proposed open spaces, including, existing and proposed walls, fences, outdoor lighting, street furniture, new paving, and ground surface materials;
  - 4. Points of vehicular and pedestrian access/egress;
  - 5. All utilities, easements, or service facilities, insofar as they relate to the project;
  - 6. Proposed site grading, including existing and proposed grades at property lines; and
  - 7. A topographic plan with 3'-0" contours;
- d) Architectural plans, sections, and elevations at a scale of 1/4" = 1' or other appropriate scale, with all spaces properly labeled and all dimensions clearly shown;
- e) Site perspectives from up to three points of view of the proposed development from public locations outside of the McLean District;

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- f) Summary of building statistics indicating the number of dwelling units, distinguishing units by number of bedrooms and any special occupancies (affordable, handicapped, etc.), the maximum number of bedrooms, floor area, and square footage of each dwelling unit;
- g) Proposed development schedule showing the beginning of construction, the rate of construction and development, including phases, if applicable, and the estimated date of completion;
- h) Detailed plans for landscaping and landscape buffers and the corresponding maintenance plans;
- i) Parking plan;
- j) Plan for lighting, including the type of fixtures, and the off-site overspill (foot candles) of the lighting;
- k) Proposed method of stormwater removal accompanied by calculations for a 20-year and 100-year storm event;
- l) Construction management program, including plans for construction vehicle access routes, on-site construction worker parking, designation of material storage methods, and locations, and designation of construction hours;
- m) Plans indicating specimen trees and other existing vegetation to be preserved;
- n) A traffic circulation plan;
- o) An erosion and sedimentation mitigation plan;
- p) A maintenance plan that provides for the private maintenance and management of the development, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and non-toxic pest control measures;
- q) A written statement of the manner in which the proposal meets each of the Design and Site Plan Review objectives contained within this Section 6B.6; and
- r) For Subdistrict A, the following are also required:
  - 1. All condominium deeds, trusts, or other documents that incorporate the applicable age-restriction and comply with all federal, state, and local laws. Covenants and deed restrictions shall provide that the townhouse dwelling units shall be occupied by Age-Qualified Occupants except for a guest visiting for short duration not to exceed 30 days in a calendar year or 30 days in any 12-month period.

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2. The manner in which the Management Organization or Homeowners Association shall certify to the Town when any unit is sold or rented and that the provisions of this Section 6B will be met.

### 6B.6.3 Additional Submittal Requirements

The Planning Board may require additional information helpful in their deliberations, including but not limited to:

- a) Materials and specifications for the proposed buildings;
- b) An estimate of municipal revenues and costs expected to be generated by the development, including anticipated real estate valuation and public service needs; and
- c) Additional information to help the Planning Board assess site perspectives from various points of view of the proposed development from public locations outside of the McLean District.

### 6B.6.4 Procedures

Applicants for Design and Site Plan Review under this Section 6B shall pay a review fee in an amount to be determined by the Planning Board to cover the reasonable costs for the employment of any independent consultants to assist in the review of the application. Consultants shall be qualified professionals in the relevant fields of expertise as determined by the Planning Board.

Applications shall follow the procedures below and as specified in Section 7.3.3 of the Zoning By-Law. Where there is a conflict in procedures, those specified below shall prevail. The Planning Board, or its designee, shall review a submitted application for completeness and shall notify the Applicant within 30 days of its submission whether the application is complete or, if not, what items are missing. If the Planning Board fails to so notify the Applicant within such time, the application shall be deemed complete; provided that nothing herein shall be interpreted to limit the ability of the Planning Board to require additional information. The time for holding a public hearing shall not commence until the Planning Board has received a complete application.

An application for Design and Site Plan Review under Section 6B.6 shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the purposes and guidelines in this Section 6B and all other requirements of this Zoning By-Law. The Planning Board may impose such reasonable conditions as it shall deem appropriate to assure the continuing consistency of the development with the purposes and guidelines of Section 6B.

Applications may be denied when:

- a) Applications are incomplete; or
- b) Proposed developments are inconsistent with the standards and criteria set forth in Section 6B, which shall be denied in writing and shall set forth the reasons for denial.



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Final decisions from the Planning Board on applications for Design and Site Plan Review shall be in writing and set forth the reasons therefor.

Proposed amendments to approvals under this Section 6B shall follow the procedures set forth for initial applications.

Notwithstanding any provisions of this Section 6B to the contrary, Design and Site Plan Review shall not be required for alterations or repairs to an existing building in a previously approved MDZ3OD development project that do not increase the height, bulk, or footprint thereof, that are not being performed to provide for its use for a substantially different purpose, and that do not violate the conditions contained within any prior Design and Site Plan Approval applicable to such building.

### 6B.6.5 Additional Conditions

In granting Design and Site Plan Approval under this Section 6B, the Planning Board may impose such other reasonable conditions or safeguards that it determines to be in compliance with the applicable criteria set forth in this Section 6B.6 including, but not limited to the following conditions:

#### a) Deed Restrictions

All townhouse dwelling units in Subdistrict A shall be subject to an age-restriction described in a deed/deed rider, restrictive covenant, the deed of the trust, master deed or articles of incorporation, or other document approved by the Planning Board that shall be recorded in the chain of title with the Registry of Deeds or Land Court.

The age-restriction shall limit the townhouse dwelling units to tenancy by Age-Qualified Occupants, any respective Non-Age Qualified Occupants, reasonable time-limit for guest visitations, and authorized exceptions that allow persons of all ages to live in the townhouse dwelling unit together with Age-Qualified Occupants, if the Planning Board so approves and specifies in its Design and Site Plan Approval.

Except in the event of the death of the Age-Qualified Occupant of a townhouse dwelling unit, or foreclosure or other involuntary transfer of a townhouse dwelling unit, a two-year exemption shall be allowed to facilitate the transfer of townhouse dwelling units to another Age-Qualified eligible household.

Deed restrictions, including age-restrictions, shall run with the land in perpetuity and shall be enforceable by an association of owners or any owner(s) of dwelling units in the development and by the Town of Belmont.

The continuing observance and enforcement of the age-restriction described herein shall be a condition of compliance with the MDZ3OD.

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### **b) Local Preference**

The Planning Board shall require that Belmont residents (as defined in Section 6.10.2 of the Zoning By-Law) be given preference in the purchase or rental of dwelling units within the MDZ3OD. Such preference shall be for 30% of the dwelling units in the development and shall be for at least one year from the issuance of the first Certificate of Occupancy for any residential building or portion thereof.

### **c) Maintenance of the Development**

The Applicant shall provide for the private maintenance and management of the development, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and non-toxic pest control measures.

### **6B.6.5 Waiver**

The Planning Board may waive any provision or provisions of this Section 6B (and including without limitation, setbacks, height restrictions, numbers of units, and parking spaces) if the Planning Board determines that granting such waiver will result in an overall improved, feasible design in accordance with the purposes and design guidelines provided in this Section 6B.

### **6B.7 Coordination with Other Provisions of the Zoning By-Law**

This Section 6B together with the rest of this Zoning By-Law constitutes the zoning regulations for the MDZ3OD. Where conflicts exist between this Section 6B and the rest of the Zoning By-Law, the provisions of this Section 6B shall govern. Except where specifically indicated in this Section 6B, the provisions of this Section 6B supersede Sections 3 (Use Regulations), 4 (Intensity Regulations), 5.1.1 (Parking – Number of Spaces), 5.1.2 (Parking – Schedule of Requirements), 5.1.3 a) (Parking and Loading Area Location and Design, Location), 5.3.3 c) (Landscaping for Parking Area Plantings), 6.6.3 b) (Floodplain District, Use Regulations), and 7.3 (Design and Site Plan Review) of the Zoning By-Law.

### **6B.8 Coordination with Memorandum of Agreement**

This Section 6B does not alter any legal obligation on behalf of the Town of Belmont, McLean Hospital, and the potential developer, of the Memorandum of Agreement signed by the Select Board (formerly known as the Board of Selectmen) on behalf of the Town of Belmont and McLean Hospital on November 22, 1999.

### **6B.9 Validity**

The invalidity of any section or provision of this Section 6B shall not invalidate any other section or provision hereof.





## MEMORANDUM OF AGREEMENT

This Agreement dated as of November 22, 1999, is entered into by and between The Town of Belmont, acting by and through its Board of Selectmen ("Belmont"), and The McLean Hospital Corporation ("McLean").

### Recitals

McLean has asked Belmont to cause a re-zoning of the approximately 238 acres of land in Belmont owned by McLean (the "Property") by adopting a zoning by-law amendment in the form attached hereto as Attachment A.

Such a rezoning would be based on the following conditions:

- a. preservation of certain portions of the Property as open space, and assurance of public access thereto, through a conservation restriction and public access easement;
- b. conveyance of a certain portion of the Property to Belmont for use as public open space;
- c. conveyance of a certain portion of the Property to Belmont for use as a municipal cemetery;
- d. coordinated management of the publicly-owned and privately-owned open space;
- e. conveyance of a certain portion of the Property to Belmont for the development of affordable housing;
- f. preservation of certain historically significant features of the Property;
- g. stipulating the continuing tax status of the Property;
- h. monitoring traffic to and from the Property, limiting the same to pre-determined levels and mitigating the effect thereof upon local roads;
- i. use of the existing soccer field on the Property;
- j. conveyance of certain additional rights and easements for public use; and
- k. reimbursement of up to \$500,000 of consultant costs incurred by Belmont.

Whereas, McLean is willing to perform certain agreements, as set forth below, if and only if the proposed zoning by-law amendment is adopted at a Special Town Meeting in the form attached hereto as Attachment A without modification;

Now, therefore, Belmont and McLean agree that, if and only if the proposed zoning by-law amendment is adopted at a Special Town Meeting in the form attached hereto as Attachment A without modification, then Belmont and McLean shall each perform the following actions on the fifth business day after approval by the Attorney General of the adopted zoning by-law amendment; provided however, that with respect to the actions described in Sections 1 through 5, 9 and 10 below: (a) if any application for design and site plan approval has been filed within one year following the date of such Special Town Meeting and a corresponding application for building permits has been filed within sixty (60) days of the granting of design and site plan approval (all such applications having been filed in good faith as being in compliance with the applicable zoning, building code and other regulatory provisions in the reasonable judgment of the applicant), then Belmont and McLean shall each perform its respective obligations on the first business

day after the issuance of the building permits applied for within such sixty day period; or (b) if no such application for design and site plan approval has been filed within one year following the date of such Special Town Meeting (or no such application for building permits has been filed within the sixty day period described above), then Belmont and McLean shall each perform its obligations on the first business day after such one year period (or the subsequent sixty day period, as the case may be) ends:

1. McLean will execute, acknowledge and record Conservation Restrictions in the form attached hereto as Attachments B1 and B2. The holder of the Conservation Restrictions shall be The Trustees of Reservations and/or such other holder as Belmont and McLean shall approve, such approval not to be unreasonably withheld.

2. McLean will convey to Belmont for open space preservation and use good and clear record and marketable title to the portion of the Property shown on Attachment C hereto (McLean acknowledging that Belmont intends to convey a portion thereof in accordance with Attachment L). McLean shall prior to such conveyance remove the soils and asphalt currently stockpiled within the North Meadows area as described in the McPhail Associates report, regrade and reseed such area to a safe and stable (non-erosive) condition and provide Belmont with a reasonable update to the McPhail report (including confirmatory post-removal sampling) confirming that the land to be conveyed to Belmont does not contain hazardous materials within the meaning of applicable state and federal law. McLean acknowledges that despite such conveyance, it remains responsible for hazardous materials on such land to extent provided for a former owner or operator of land under applicable state and federal law.

3. McLean will convey to Belmont, to be used in perpetuity for open space in an open and natural condition or for municipal cemetery use, good and clear record and marketable title to the portion of the Property shown on Attachment D hereto. Belmont, McLean and the Cemetery Commission will enter into an agreement regarding the cemetery in the form attached hereto as Attachment K.

4. Belmont and McLean will enter into a land management agreement in the form attached hereto as Attachment E. The management agent shall be the Massachusetts Audubon Society or such other agent as Belmont and McLean shall approve, such approval not to be unreasonably withheld.

5. McLean will convey to Belmont for the development of affordable housing, mixed-income housing containing affordable units and/or parking accessory to affordable housing good and clear record and marketable title to the portion of the Property shown on Attachment F hereto, together with an easement permitting vehicular access to such property from the to-be-constructed access to the Property from Pleasant Street.

6. Belmont and McLean will enter into an historic preservation agreement in the form attached hereto as Attachment G.

7. Belmont and McLean will enter into a tax agreement in the form attached hereto as Attachment H. Belmont will pursue a special act of the Legislature ratifying such agreement.

8. Belmont and McLean will enter into a traffic monitoring and mitigation agreement in the form attached hereto as Attachment I.

9. Belmont and McLean will enter into an agreement regarding the existing soccer field on the Property in the form attached hereto as Attachment J.

10. McLean will convey to Belmont (provided that Belmont must accept such conveyance within a reasonable time, taking into account any planning processes which Belmont may be actively pursuing, after receiving notice from McLean that McLean's development planning requires Belmont's acceptance or rejection of such conveyance and that Belmont shall, after such acceptance, be responsible for the maintenance and upkeep of the building or land conveyed): (a) an appropriate building for use as a cultural center (if Belmont accepts such conveyance, an appropriate adjustment to the traffic monitoring and mitigation agreement shall be made to exclude traffic generated by Belmont's use of the

cultural center); (b) an appropriate area along Pleasant Street for an anticipated bike path following a vote by the Board of Selectmen approving the bike path through Belmont; and (c) easements or fee title along Pleasant Street as necessary to alter such street (and related sidewalks), provided that such grants under clauses (b) and (c) shall not exceed ten feet in depth from the existing Pleasant Street right-of-way except as needed in the opinion of the Town Engineer to create adequate sight lines for the proposed new access to the Property from Pleasant Street (where in excess of ten feet in depth, such grants shall consist of easements, not transfers of fee title); all of the foregoing at no cost to Belmont, provided, however, that Belmont shall be responsible for any costs related to any such projects.

11. McLean will reimburse Belmont the documented costs of its consultants in the rezoning process, such reimbursement not to exceed \$500,000. McLean will further reimburse Belmont for reasonable additional inspectional services, with any fees for building permits paid being offset against such costs.

12. Belmont has determined that any proposed roadways within the McLean District will be "driveways" and, therefore, will not be subject to the Rules and Regulations of the Board of Survey.

13. Belmont and McLean agree that vehicular access to Zone 1A under the proposed zoning by-law amendment shall be provided through the area shown on Exhibit C to the Conservation Restriction (Attachment B1).

14. McLean shall execute, acknowledge and deliver an agreement providing that no more than 10,000 square feet of gross floor area located on the Property shall be used for child day care, not including the continuation or relocation of the existing facility, and that all of the attendees within such 10,000 square feet of child day care facilities shall be the children of parents working or living at the Property, except as allowed by Belmont.

15. Belmont and McLean agree that if the Town's adoption of the proposed zoning amendment is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction prior to the performing of the actions described in Sections 1 through 5, 9 and 10 above (except for such a determination which applies only to a portion of the zoning amendment which does not materially impair the rights of Belmont or McLean thereunder), then the provisions of this Memorandum (other than Section 11) and each of the agreements and documents referenced herein shall be null and void.

16. Belmont will pay McLean \$2.2 million in consideration for McLean's agreement to reduce the allowed gross floor area from 200,000 to 150,000 square feet in the Research and Development Subdistrict. Such payment will be made through: (a) waiver of the reimbursement of consultant fees set forth in Section 11 of this Memorandum; (b) reduction of \$200,000 in McLean's obligation to provide funding for traffic mitigation measures pursuant to Section II of Attachment I to this Memorandum; and (c) payment of \$1.5 million at the time of approval by the Planning Board of the concept plan submitted for development of the Research and Development Subdistrict. Belmont and McLean agree that if Belmont fails to pay the \$1.5 million at the time of such approval then, notwithstanding the other provisions of the Memorandum, McLean shall not be required to perform its obligations in Sections 1 through 5, 9 and 10 until such payment is made.

17. McLean agrees that the site plan review process shall include the submission of evidence, to the satisfaction of the Planning Board, of compliance with all of the ancillary agreements attached hereto, including the Traffic Monitoring and Mitigation Agreement, Attachment I.

18. McLean agrees that any change of use from a psychiatric use to a non-psychiatric use would be a "substantially different purpose" requiring site plan review under Section 6A.4 of the proposed Zoning By-Law amendment.

19. McLean agrees to grant to the Town an option, in a form satisfactory to the Town, to purchase up to sixteen lots contiguous to the high quality open space in Zone 1A at a price of \$200,000



per lot, provided, however, that if at least six lots are not so purchased by September 30, 1999 the option will terminate.

McLean agrees that it shall take no action, prior to the consummation of the actions described in Sections 1 through 5, 9 and 10, which would be inconsistent with its performance of such actions at the specified time. Without limiting the foregoing, McLean agrees during such interim period to comply with the provisions of the Conservation Restriction described in Section 2 as if they were in full force and effect and to retain ownership of the land which is the subject of Sections 1 through 5, 9 and 10. Nothing in this paragraph shall be deemed to require McLean to allow public access to the Property during such interim period.


The foregoing obligations shall run with the land now owned by McLean Hospital Corporation in Belmont, Massachusetts. A notice thereof in the form of Attachment M shall be executed by McLean and recorded with the Registry of Deeds upon adoption of the zoning amendment described herein. This Agreement shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Agreement shall not be amended in any material respect except by a further majority vote of Town Meeting.

Executed under seal as of the date first above written.

Town of Belmont

By:   
Selectman

By:   
Selectman

By:   
Selectman

The McLean Hospital Corporation

By: 

Its Duly Authorized President

ATTACHMENT A  
ZONING BY-LAW AMENDMENT

ARTICLE A

That the Town amend the Zoning By-Law of the Town by deleting the first sentence of Section 2.1 and by substituting therefor the following:

"The Town of Belmont is hereby divided into 12 classes of Districts"

and by adding "McLean District" to the list of districts to be inserted after "Parking Lot."

ARTICLE B

That the Town amend the Zoning By-Law of the Town by adding the following Section 6A, to be entitled "McLean District" to be inserted in the By-Law after Section 6, "Special Regulations."

"6A. **McLEAN DISTRICT.** There are six (6) subdistricts within the McLean District: Residential Subdistrict (divided into Zone 1A and 1B and Zone 2); Senior Living Subdistrict; Research and Development Subdistrict; McLean Institutional Subdistrict; Open Space Subdistrict and the Cemetery Subdistrict.

6A.1 **Allowed Uses.**

6A.1.1 **Residential Subdistricts.** Within the Residential Subdistricts, side-by-side attached single family dwellings (and the conversion of structures existing as of the date of adoption hereof to single family or multi-family dwellings) shall be allowed, as well as private club or lodge facilities used exclusively by residents with a maximum aggregate gross floor area of 16,000 square feet (provided that such facilities are located within the first floor of existing buildings that are rehabilitated and reused and that dwelling units are located within the upper floors of such buildings) and those other accessory uses permitted in the Single Residence A, B, C and D Districts, other than lodging and boarding (provided, however, that accessory parking shall be limited as provided in Section 6A.3 and accessory structures shall only be allowed by special permit issued by the Planning Board).

6A.1.2 **Senior Living Subdistrict.** Within the Senior Living Subdistrict, a continuing care retirement community shall be allowed, which shall be defined as development comprised of housing and other associated services operated or sponsored as a coordinated unit by a corporation or organization having as its principal purpose the provision of housing and associated services, including those designed to provide for medical care and assistance with activities of daily living, for elderly persons. A continuing care retirement community may include one or more of the following types of facilities:

- (a) **Independent Living Facilities.** Independent Living Facilities provide private living and dining accommodations to persons fifty-five (55) years of age or older, and may include the provision of common areas, social and educational programs, and psychological counseling and crisis intervention as needed, all with the purpose of providing an environment in which older persons can continue to derive the personal and psychological

benefits of independent living while also enjoying the substantial social and educational benefits of community living. Home health care facilities for the provision of medical, nutritional, social, psychological and educational services for the residents of the Independent Living Facilities are permitted.

- (b) **Assisted Living Facilities.** Assisted Living Facilities provide a sheltered living environment for persons fifty-five (55) years of age or older, and may include such services as housekeeping, cooking and common dining, social, psychological, and educational programs, programs for Alzheimer care, assistance with personal needs, and crisis intervention, all with the purpose of assisting each resident to continue to develop and to lead a productive and fulfilling life.
- (c) **Nursing Care Facilities.** Nursing Care Facilities are those facilities licensed or approved by the applicable state or federal agency to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. Nursing Care Facilities may include medical and therapeutic and ancillary support and rehabilitation services, including but not limited to, food services, programs for Alzheimer care, social, psychological, and educational programs, and twenty-four hour supervision as appropriate.
- (d) **Multipurpose Senior Facilities.** Multipurpose Senior Facilities provide social, educational, medical and therapeutic, wellness, counseling, recreational, outreach, and other activities for residents of the Independent Living Facilities, the Assisted Living Facilities and the Nursing Care Facilities. Multipurpose Senior Facilities may include a beauty parlor/barber shop, convenience store, ice cream parlor, bank, exercise center, and other such services ancillary to a senior living community, so long as such services are provided exclusively for staff, residents and their guests.
- (e) **Day Care and Similar Programs.** Adult day care facilities and respite care facilities shall be allowed; provided, however, that such uses shall not serve more than 100 persons per day.

6A.1.3 **Research and Development Subdistrict.** Within the Research and Development Subdistrict, offices for and laboratories for research and development, including but not limited to, research and development in the fields of biology, chemistry, electronics, engineering, geology, medicine, pharmaceutical, physics, computer research and technology shall be allowed.

6A.1.4 **McLean Institutional Subdistrict.** Within the McLean Institutional Subdistrict, psychiatric hospital use, including clinical, research and teaching programming in the nature of McLean Hospital's current operations as of the effective date of this By-Law, shall be the principal use. To the extent consistent with such principal use, the following non-psychiatric medical uses are also allowed, but such uses in the aggregate shall not exceed 30% of the gross floor area within the Subdistrict: clinics, educational facilities, outpatient services, research and development laboratories and other types of hospital uses and



residential programs and professional offices for doctors and other hospital professionals or paraprofessionals; further provided, however, that the following non-psychiatric medical uses in the aggregate shall not exceed 25,000 square feet in gross floor area: clinics, outpatient services and professional offices for doctors, other hospital professionals and paraprofessionals. Uses accessory to psychiatric hospital use and serving the needs of patients or employees are also allowed including overnight accommodations for visitors, cafeterias, fitness centers or gymnasiums, library, art gallery, places of worship, automatic teller machines and auditoriums so long as such services are provided exclusively for staff, residents and their guests.

6A.1.5 **Open Space Subdistrict.** Within the Open Space Subdistrict, passive recreational uses shall be allowed; provided that the existing building known as Mill Street Lodge can be used as a facility for marketing dwellings in the Residential Subdistricts; the existing building known as Pleasant Street Lodge can be used as a facility for marketing units or space within the Senior Living Subdistrict or Research and Development Subdistrict; and accessory outdoor parking, trails and visitor and interpretative facilities are allowed within publicly-owned land within the Subdistrict. Except as expressly provided herein, the lands within the Open Space Subdistrict shall be continued in an undeveloped and natural condition. Except as expressly provided herein, cutting, removing or destroying trees (other than the removal of diseased or damaged trees), altering the natural topography and constructing or locating structures within the Subdistrict shall not be allowed. Such land shall not be used for residential, industrial, institutional or commercial use, except that construction and use of vehicular and pedestrian access ways shall be allowed (only within those areas identified as "Vehicular Access Easement" on the Zoning Map) and the installation and maintenance of underground utilities and underground communication connections shall be allowed (only to the extent that such utilities and connections are located and constructed in a manner which minimizes the impact on the conservation values of the property). Continuation and replacement of existing utility and communication facilities shall be allowed. Continuation of the existing recreational field shall be allowed. Use of existing buildings within publicly-owned land within the Subdistrict for cemetery purposes shall be allowed.

6A.1.6 **Cemetery Subdistrict.** Within the cemetery subdistrict, cemetery and associated interment uses, structures, including offices, garage, maintenance buildings and columbariums together with landscaping, pathways, access drives and accessory parking shall be allowed. The installation and maintenance of underground utilities and underground communication connections shall be allowed (only to the extent that such utilities and connections are located and constructed in a manner which minimizes the impact on the conservation values of the property). Continuation and replacement of existing utility and communication facilities shall be allowed.

6A.2 **Dimensional Requirements.** Gross floor area shall have the meaning set forth in this By-Law except that such area shall include all structures within the Subdistrict (except for preserved structures of historic significance which are vacant, unused and unoccupied and structures on privately-owned land used by the Town for public purposes), not within a given lot, and except that interior parking areas shall be excluded.

6A.2.1 **Residential Subdistricts.** The dimensional requirements applicable to the Residential Subdistricts are:

- (a) Maximum building height of 2.5 stories and 36 feet. For the purposes of this Section 6A, "height" shall mean the vertical distance from the average natural grade adjoining the building at all exterior walls to the highest point of the roof. Notwithstanding the foregoing, for purposes of determining the height of no more than 12 buildings in Zone 1A (each of which must have its side with its greatest height from grade turned more than 90° away from the northern boundary of the Subdistrict) and no more than 20 buildings in Zone 2, an alternative height limit shall be applied: the vertical distance from the average natural grade adjoining the building on the side that has the highest average natural grade to the highest point of the roof shall not exceed 36 feet and the vertical distance from the average natural grade adjoining the building on the side that has the lowest average natural grade to the highest point of the roof shall not exceed 50 feet. For buildings using this alternative height limit, a floor having a ceiling elevation at or below the average natural grade adjoining the building on the side that has the highest average natural grade shall not be considered a story. Each dwelling unit shall be considered a separate building for the purpose of determining height hereunder. No flat or shed roofs shall be allowed on buildings or building elements of more than one story.
- (b) Maximum number of dwelling units and gross floor area.
  - (1) in Zone 1A, maximum of 33 units and a maximum total gross floor area of 99,000 square feet.
  - (2) in Zone 1B, maximum of 22 units and a maximum total gross floor area of 66,000 square feet.
  - (3) in Zone 2, maximum of 56 units and a maximum total gross floor area of 168,000 square feet.
  - (4) notwithstanding the provisions of subsections (b)(1), (b)(2) and (b)(3), an additional 11 dwelling units may be constructed as a historic preservation bonus based on rehabilitation and reuse of buildings consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation; five such units shall be earned based on preservation and restoration of the existing building known as Upham Building and shall be located in Zone 2; four such units shall be earned based on rehabilitation and reuse of the existing building known as Garage Building and shall be located in Zone 1A or 1B; one such unit shall be earned based on rehabilitation and reuse of the existing building known as Hope Cottage and shall be located in Zone 2 and one such unit shall be earned based on rehabilitation and reuse of the existing building known as South Cottage and shall be located in Zone 2. Such units shall not have a maximum

gross floor area so long as they are located in the existing buildings as preserved and restored. Such units shall have a maximum average gross floor area of 3,000 square feet if they are located outside the buildings preserved and restored.

- (c) Minimum open space of 60% of lot area within Zone 1A and minimum open space of 40% of lot area within Zone 1B and Zone 2.
- (d) Maximum lot coverage of 20% of lot area within Zone 1A and Zone 1B and maximum lot coverage of 30% of lot area within Zone 2.
- (e) Maximum impervious surface coverage of 40% of lot area within Zone 1A and maximum impervious surface coverage of 60% of lot area within Zone 1B and Zone 2. For the purposes of this Section 6A, "impervious surface coverage" shall mean the total area of all surfaces which reduce or prevent the absorption of storm water into land (including buildings, parking lots, driveways and sidewalks).
- (f) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan review), nor any parking areas may be placed within such setback.
- (g) Minimum setback from buildings to common driveways of 15 feet.
- (h) Along the northerly boundary of Zone 1A, for 400 feet from the northeast corner of the subdistrict, and along the easterly boundary of Zone 1A, for 200 feet from the northeast corner of the subdistrict, the following shall apply:
  - (1) The area within 30 feet of such portions of such boundaries shall be maintained in an undeveloped and natural condition, except for the landscaping described below.
  - (2) If structures are located in Zone 1A within 100 feet of such portions of such boundaries, there shall be landscape buffering, including evergreen trees of substantial size (12 to 15 feet in height) upon planting, along both sides of such portions of such boundaries (to the extent permitted by the Town, where on Town property), which shall (a) provide a dense visual screening of such structures from view from the adjacent land in the Open Space Subdistrict; (b) be designed in a manner consistent as feasible with the natural appearance of the area and (c) be designed in a manner consistent as feasible with the continued life and health of the existing trees. Such landscape buffering may include the removal of invasive plants and their

replacement with other native species.

6A.2.2 **Senior Living Subdistrict.** The dimensional requirements applicable to the Senior Living Subdistrict are:

- (a) Maximum building height of 5 stories and 58 feet, except that one building may extend as high as 6 stories and 67 feet; provided that in such case the Planning Board determines that the siting and design of the building having such additional height shall be such that its roof elevation does not exceed the roof elevation of the 5 story building in the Subdistrict with the highest roof elevation and takes into consideration the tree line in the vicinity of such building; provided, further that a parking structure shall have a maximum height of 5 stories and 45 feet. For purposes of determining the height of a building in the Subdistrict, if and only if the lowest floor of the building is used for parking, then an alternative height limit shall be applied: the vertical distance from the average natural grade adjoining the building on the side that has the highest average natural grade to the highest point of the roof shall not exceed 58 feet and the vertical distance from the average natural grade adjoining the building on the side that has the lowest average natural grade to the highest point of the roof shall not exceed 68 feet. For buildings using this alternative height limit, a floor having a ceiling elevation at or below the average natural grade adjoining the building on the side that has the highest average natural grade shall not be considered a story.
- (b) Maximum number of 480 units, at least 30 non-nursing care units of which must be set aside on a continuing basis as affordable units, and no more than a total gross floor area of 600,000 square feet; provided, however, that an additional 6 units having a total gross floor area of no more than 6,000 square feet may be constructed as a historic preservation bonus based on rehabilitation and reuse of buildings consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation; two such units shall be earned based on rehabilitation and reuse of the existing building known as Chapel Building; and four such units shall be earned based on rehabilitation and reuse of the existing building known as Office Building. Of the 486 units, no more than 400 shall be Independent Living Facilities, no more than 150 shall be Assisted Living Facilities and no more than 150 shall be nursing care beds within Nursing Care Facilities. "Affordable units" shall mean units which are rented or sold to, and occupied by, households with annual incomes of up to 120% of the median area household income, as such median is defined by the United States Department of Housing and Urban Development. The availability of the affordable units may be phased in by approval of the Planning Board in connection with Design and Site Plan Review.
- (c) Multipurpose senior facilities (not including customary common areas for the residential units) cannot exceed 10% of the total allowable gross floor area and shall be included within such total allowable gross floor area.



- (d) Minimum open space of 30% of lot area within the Subdistrict.
- (e) Maximum lot coverage of 40% of lot area within the Subdistrict.
- (f) Maximum impervious surface coverage of 70% of lot area within the Subdistrict.
- (g) Minimum setback from buildings to the Subdistrict boundary line of 10 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.

6A.2.3 **Research and Development Subdistrict.** The dimensional requirements applicable to the Research and Development Subdistrict are:

- (a) Maximum building height of 4 stories and 67 feet; except that a parking structure shall have a maximum height of 5 stories and 45 feet.
- (b) Maximum gross floor area of 150,000 square feet.
- (c) Minimum open space of 30% of lot area within Subdistrict.
- (d) Maximum lot coverage of 40% of lot area within Subdistrict.
- (e) Maximum impervious surface coverage of 70% of lot area within Subdistrict.
- (f) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.

6A.2.4 **McLean Institutional Subdistrict.** The dimensional requirements applicable to the McLean Institutional Subdistrict are:

- (a) Maximum building height of 4 stories and 67 feet.
- (b) Maximum gross floor area of 668,000 square feet.
- (c) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.
- (d) The area within the Subdistrict shown on the Zoning Map as "Conservation Buffer" shall be maintained as open space in an undeveloped and natural condition and no building, fences, walls or paving shall be located in such area.

6A.2.5 **McLean Cemetery Subdistrict.** The dimensional requirements applicable to the McLean Cemetery Subdistrict are:

- (a) Maximum gross floor area of 2,450 square feet.
- (b) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. Minimum setback from buildings to public streets of 30 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setbacks.

6A.3 **Parking and Access Requirements.**

6A.3.1 **Maximum Number of Spaces.** Accessory parking for the uses allowed in the Residential Subdistricts, the Senior Living Subdistrict, the Research and Development Subdistrict, the McLean Institutional Subdistrict, and the Cemetery Subdistrict shall be allowed provided that such parking may not exceed the limits set out in the following table.

Residential Subdistricts	Two inside parking spaces and two outside parking spaces per dwelling and 122 parking spaces for guests.
Senior Living Subdistrict	One parking space per unit and 50 parking spaces for staff and guests.
Research and Development Subdistrict	Three and one-half parking spaces per 1,000 square feet of gross floor area.
McLean Institutional Subdistrict	For existing uses and structures 853 parking spaces.  For new construction, as follows: 3 per 1,000 square feet of gross floor area; provided, however, that the total of parking spaces added for all new construction may not exceed 150 spaces.
Open Space District (privately-owned lands)	Five parking spaces adjacent to the Mill Street Lodge; five parking spaces adjacent to the Pleasant Street Lodge.
Cemetery Subdistrict	Seven parking spaces.

6A.3.2 **Parking Location and Layout.** Parking must be located in the same Subdistrict as the use it serves. Parking space sizes shall conform to the rules and requirements generally applicable to the Town of Belmont as established from time to time by the Planning Board. Inside parking spaces in the Residential Subdistricts shall be located within a dwelling or an attached garage (no garage shall contain more than two spaces). Outside parking spaces in the Residential Subdistricts shall be located within a driveway leading to the garage. Guest parking spaces in the Residential Subdistricts shall be outside and shall be located in clusters of no more than 6 spaces each, such clusters to be located as approved by the Planning Board in connection with Design and Site Plan Review. No more than 350 parking spaces in the Senior Living Subdistrict may be outdoor surface spaces; the remainder must be located within a parking garage or other building. No more than 350 parking spaces in the Research and Development Subdistrict may be outdoor surface spaces, the remainder must be located within a parking garage or other building.

6A.3.3      **Access Limitations.** Vehicular access to the Residential Subdistricts and the McLean Institutional Subdistrict shall be via Mill Street, except in case of emergency access. Vehicular access to the Senior Living Subdistrict and the Research and Development Subdistrict shall be via Pleasant Street, except in case of emergency access.

6A.4      **Design and Site Plan Review.** Any activity requiring a building permit in any Subdistrict, and any proposed construction of a vehicular access way across land in the Open Space Subdistrict, shall require design and site plan approval by the Planning Board pursuant to this Section 6A.4 (the provisions of Section 7.3 of this By-Law shall not apply except as provided below).

The Planning Board shall promulgate rules requiring any applicant for Design and Site Plan Review under this Section 6A.4 to pay a review fee, in an amount to be determined by the Planning Board to cover the reasonable costs of the Planning Board for the employment of any independent consultants determined to be needed to assist in the review of the application for site plan approval. Such consultants shall be qualified professionals in the relevant fields of expertise determined by the Planning Board.

The objectives of Design and Site Plan Review under this Section 6A.4 shall be to:

- (a) obtain appropriate evidence that a traffic monitoring and mitigation program agreement has been entered into with the Town;
- (b) obtain appropriate evidence that the proponent or other party has placed into escrow the funds required pursuant to any traffic monitoring and mitigation program agreement entered into with the Town;
- (c) determine the adequacy of measures proposed to mitigate construction period impacts on the natural features of the site, on neighboring premises and on the Town roadway system;
- (d) determine the adequacy of measures proposed to mitigate the effects of the development on significant natural and landscape features of the site, including the preservation of specimen trees;
- (e) determine the appropriateness of the proposed design and materials of proposed buildings;
- (f) determine the adequacy of measures proposed to limit peak offsite stormwater runoff to predevelopment levels and to protect water quality in accordance with State stormwater management standards, including adherence to the criteria set forth in Section 6A.5;
- (g) determine the adequacy of measures proposed to prevent adverse erosion or sedimentation effects on the natural features of the site or on neighboring premises;
- (h) where applicable, obtain appropriate evidence of compliance with all applicable regulatory and licensing requirements with respect to the handling of potentially hazardous materials, including

biologic or radioactive materials;

- (i) determine that adequate measures have been taken for the private maintenance and management of the development (including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow removal, trash removal and recycling);
- (j) determine that the adjoining premises within and outside of the McLean District will be protected against seriously detrimental uses by provision for surface water drainage, sound and light buffers, prevention of undue solar reflection and glare and preservation of views, light and air;
- (k) determine that there will be no serious hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks;
- (l) determine the adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the buildings;
- (m) determine the appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location and landscape screening of dumpsters or other trash receptacles;
- (n) determine that the height and bulk of the proposed buildings will not be injurious to surrounding property outside of the McLean District, including appropriate location and screening of non-habitable roof elements;
- (o) determine the adequacy of the lighting, landscape planting (including adequate buffers along Subdistrict boundaries) and other exterior construction features in relation to the proposed use of the site and the interests of the safety, convenience and welfare of the public;
- (p) determine the appropriateness of the relationship of structures and open spaces to the natural landscape and existing buildings, including the relationship between structures in Zone 1A and the adjacent publicly-owned land in the Open Space Subdistrict;
- (q) obtain appropriate evidence of compliance of the proposal with the applicable requirements of this By-Law other than this Section 6A.4; and
- (r) obtain appropriate evidence of compliance of the proposal with any non-zoning agreements entered into with the Town of Belmont regarding land in the McLean District.

Any applicant for Design and Site Plan Review shall submit ten copies of a preliminary concept plan for review by the Planning Board prior to submission of a formal application. The preliminary review shall provide an opportunity for the applicant to identify early in the process the preferences of the Planning Board relative to the development of the site. The preliminary concept plan should show the proposed location and size of all buildings, parking areas, driveways and



undisturbed natural areas. When the applicant submits a preliminary concept plan to the Planning Board, the applicant shall at the same time provide a copy of such submission to the Conservation Commission, the Historic District Commission, the Community Development Office, the Town Administrator, the Police Department and the Fire Department (the "Commenting Agencies"). The Planning Board will provide advice and guidance to the applicant after an opportunity for the Commenting Agencies and the public to provide written comments on the preliminary concept plan.

Each application for Design and Site Plan Review under this Section 6A.4 shall be accompanied by ten copies of the documents described in Section 7.3.3. In addition, the application shall also be accompanied by ten copies of: (i) plans showing the existing and proposed topography in two foot contours and showing subsurface conditions; (ii) a construction management program including plans for construction vehicle access routes, on-site construction worker parking, designation of material storage methods and locations, and designation of construction hours; (iii) a development phasing plan, setting forth the anticipated timing of construction and occupancy of the proposed development; (iv) plans showing anticipated views of the proposed development from public locations outside of the McLean District; (v) a reasonably scaled model of the proposed development; (vi) plans indicating specimen trees and other existing vegetation to be preserved; (vii) a traffic circulation plan; (viii) an erosion and sedimentation mitigation plan; (ix) evidence of property ownership; (x) a stormwater management plan, including the calculations described in Section 6A.5(a) and setting forth all proposed facilities and performance standards in sufficient detail to permit the Planning Board to evaluate the proposed development in accordance with the provisions of Section 6A.5; (xi) a written statement of the manner in which the proposal meets each of the objectives set forth above; (xii) evidence that the proposal complies with any non-zoning agreements entered into with the Town of Belmont regarding land in the McLean District; and (xiii) evidence that a crane, balloon or other temporary representation of the height of each proposed structure has been brought to the site and kept in place for not less than 72 hours, together with photographs of such representation taken from a sufficient number of locations suitable for evaluating the visual impacts of each proposed structure in accordance with the objectives set forth above. Where applicable, plans shall be prepared by a registered architect, landscape architect, land surveyor or professional engineer.

The Planning Board or its designee shall review a submitted application for completeness and shall notify the applicant within thirty (30) days of its submission whether the application is complete or, if not, what items are missing. If the Planning Board fails to so notify the applicant within such time, the application shall be deemed complete; provided that nothing herein shall be interpreted to limit the ability of the Planning Board to require additional information. The time for holding a public hearing shall not commence until the Planning Board has received a complete application. Upon receiving notice that an application is complete, the applicant shall provide a copy of the complete application to the Commenting Agencies. After an application has been submitted, no tree removal, grading, filling, construction of roads or installation of utilities shall occur with respect to the proposed area of development until the application has been approved by the Planning Board.

In reviewing an application of Design and Site Plan Review under this Section 6A.4, the Planning Board shall follow the procedures established in the first two paragraphs of Section 7.3.5. Notice of the public hearing shall be provided to the Commenting Agencies inviting written comments and recommendations. An

application may be denied where (a) an application is incomplete or (b) no reasonable conditions will ensure that the proposed development is consistent with the objectives set forth in this Section 6A.4. Such a denial shall be in writing and shall set forth the reasons therefor. It is the intent of this Section 6A.4 that an application for Design and Site Plan Review hereunder shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the objectives in this Section 6A.4 and all other requirements of this Section 6A. The Planning Board may impose such reasonable conditions on its approval as it shall deem appropriate to assure the continuing consistency of the development with the objectives set forth herein. The Planning Board may require the posting of a bond or other reasonable security as a condition of its approval as it shall deem appropriate to assure compliance with the approval and its conditions.

An appeal from a decision of the Planning Board may be filed with Superior Court or Land Court under General Laws c.40A, §17 within twenty days of the filing of the decision with the Town Clerk. Any proposed amendment to an approval under this Section 6A.4 shall follow the procedures set forth herein for an initial application. Notwithstanding any provisions hereof to the contrary, Design and Site Plan approval shall not be required for alterations or repairs to an existing building which do not increase the height, bulk or footprint thereof, which are not being performed to provide for its use for a substantially different purpose and which do not violate the conditions contained within any prior Design and Site Plan approval applicable to such building; provided that the proponent must nonetheless obtain the Planning Board's approval of a construction mitigation plan appropriate for the scope of the proposed alteration or repair prior to the issuance of a building permit. If Design and Site Plan approval is required for alterations or repairs, the Planning Board shall only require such information as reasonably necessary given the scope of proposed alteration or repair.

**6A.5                      Stormwater Management Facilities.** Stormwater management facilities shall comply with the following requirements:

- (a) Calculations for pre-and post-development runoff based on the 100-year, 24-hour storm event shall be submitted to the Town Engineer upon application for Design and Site Plan Review.
- (b) Where possible, roof drainage shall be piped directly into the ground via infiltration trenches and/or dry wells. Where possible, roads and paving areas shall be designed to allow absorption of runoff into adjacent pervious areas.
- (c) Additional detention of post-development impervious surface discharge shall be provided to assure that peak storm discharge can be accommodated by and not prohibit additional discharge to the limited hydraulic capacity of the existing town off-site storm drainage system.
- (d) Stormwater management solutions shall be kept local within each Zone to minimize accumulation and the need for larger structures.
- (e) Stormwater runoff shall be retained by open detention basins or by an underground chamber system similar to Cultec Contractor Chamber Systems, or equal. At least 50% of the required detention in each Zone shall be by underground chambers.

- (f) Open detention basins shall have a water storage depth of no more than 3 feet at peak in the event of the 100-year storm. All detention basins or chambers shall have a controlled outlet so as not to exceed the capacity of the existing town drainage system. Any exposed concrete retaining wall surfaces (both sides) shall be finished with natural stone to assure a visually attractive structure.
- (g) Underground chambers in all traffic and parking areas shall be heavy duty and structurally capable of withstanding highway H-20 loading or the heaviest fire department vehicle whichever is greater. Chambers shall be aligned parallel to the contours. In so far as possible, underground chambers shall be constructed under proposed roadways and parking areas or within building foundations so as to limit the disturbance of existing natural open space.
- (h) Excess roof drainage shall be piped directly to the underground detention chambers, while runoff from road and parking areas shall be passed through Water Quality Inlets/Deep Sump Catch Basins to remove trash, debris and some amount of sediment and oil and grease from stormwater runoff. Stormwater discharge from the underground chambers shall be through a weir box or other device to carefully regulate discharge flows to the Town's storm drainage system.
- (i) Disruption to existing tree cover and vegetation shall be minimized.
- (j) All stormwater management facilities shall be the least visually obtrusive.
- (k) Structures shall have all appurtenances carefully integrated to minimize visual presence.
- (l) Dikes, berms and other required grading shall be blended with the terrain and appropriately vegetated and landscaped.
- (m) All walls, pipe structures and appurtenances shall be designed to assure public safety by devices which prevent climbing and other hazards.
- (n) Open detention basins shall have retaining walls having a height (measured at the point of maximum vertical distance from grade) no greater than 4 feet and a length no greater than 100 feet.
- (o) Redirection of stormwater shall not have an adverse effect on wetland areas within the McLean District.
- (p) Open detention basins shall have sufficient outlet capacity to drain within five days following the 100-year storm event.

6A.6 **Coordination with Other Provisions of By-Law.** Where this Section 6A imposes a greater restriction upon uses or structures than is imposed by the remaining provisions of this By-Law, the provisions of this Section 6A shall control. Within the McLean District, more than one principal building may be

erected on a lot, subject to the limitations of Section 4.3.5 and Section 4.3.6 regarding accessory buildings and recreational facilities, and subject to Design and Site Plan Review and the other limitations set forth in this Section 6A. The provisions of Section 5 and Section 6 of this By-Law shall apply to uses and structures within the McLean District, except that Sections 5.1.1 and 5.1.2 shall not apply. Within the McLean District, wireless telecommunications facilities shall be allowed by special permit in accordance with Section 6.8.

6A.7 **Validity.** The invalidity of any section or provision of this Section 6A shall not invalidate any other section or provision hereof."

#### ARTICLE C

That the Town amend the Zoning By-Law of the Town by adding the following Section 6.9:

"6.9 **Affordable Housing.**

The Planning Board may grant a special permit for any tract of land in a General Residence District located adjacent to the McLean District, which special permit shall allow:

- (a) the construction and use of an apartment house or other multi-family dwellings which contain at least 25% "affordable units" as defined in Section 6A.2.2(b) and which contain up to 40 dwelling units overall; and
- (b) the modification of any intensity or dimensional requirement set forth in Section 4.2 or Section 4.3 as necessary in the determination of the Planning Board to permit such development to contain the greatest practical number of affordable units, but in no event so as to allow more than 40 dwelling units overall."

#### ARTICLE D

That the Town amend the Zoning Map of the Town by adding and incorporating the map entitled "McLean Hospital Reuse Master Plan, Belmont, Massachusetts" prepared by Design Consultants, Inc. dated February 22, 1999, on file in the office of the Town Clerk.



## CONSERVATION RESTRICTION B-1

### McLean Hospital Property, Open Space Property

#### Belmont, Massachusetts

##### I. Grantor Clause:

The McLean Hospital Corporation, a Massachusetts corporation having a usual address of 115 Mill Street, Belmont, MA ("Grantor"), acting pursuant to Sections 31 et seq. of Chapter 184 of the General Laws, grants, with quitclaim covenants, to The Trustees of Reservations, a Massachusetts nonprofit corporation having an address at 572 Essex Street, Beverly, MA 01915, and its successors and assigns ("Grantee") in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction on certain parcels of land located in the Town of Belmont, Massachusetts, constituting 109.99 +/- acres, said parcels being those identified as "Conservation Restriction Areas" on Exhibit A attached hereto, which Exhibit is based upon a plan titled "McLean Hospital Reuse Master Plan, Belmont, Massachusetts, Prepared By Design Consultants, Inc.," dated February 22, 1999, and recorded in the Middlesex County Registry of Deeds at Book 2005, Page 126 (the "Premises"). For Grantor's title, see deed from Massachusetts General Hospital to McLean Hospital, dated September 30, 1980 and recorded in the Middlesex County Registry of Deeds, Book 14084, Page 0272.

##### II. Purposes:

The Premises contain unusual, unique or outstanding qualities, the protection of which in their natural or open condition will be of benefit to the public. These qualities include: wooded upland habitat, wetlands, springs, vernal pools, open meadows, native grasses and wildflowers, and significant habitat for native plants and wildlife, scenic vistas and historic landscapes, landscape features and archeological sites; as well as significant scenic beauty and opportunities for passive recreation consistent with the protection of open space and habitat. The mature forest community known as the Eastern Woods and the meadow known as Lone Tree Hill are of high ecological value and provide critical habitat to wildlife. The views looking out west from Lone Tree Hill to the former site of the Metropolitan State Hospital (a significant portion of which has been dedicated as public open space), of the white pines (known as the Pine Allee) along Concord Avenue, and the fields along Mill Street are important for their scenic and historic values. The diversity of natural habitats on the Premises, and its location as part of a regional greenway, make this a parcel of significant ecological and conservation value. Baseline documentation of the conservation values of the Premises has been prepared by Grantee and approved by Grantor and is available for review in the offices of Grantee.

In addition, this Conservation Restriction is an integral part of the Memorandum of Agreement between McLean Hospital and the Town of Belmont, entered into on

**RETURN TO**  
**HEMENWAY & BARNES**  
60 State Street  
Boston, MA 02109

Premises: "McLean District", Belmont, MA

November 22, 1999, which required the rezoning of the McLean Hospital property and the establishment of Conservation Restriction B-1 and B-2. Said Memorandum including Conservation Restriction B-1 and B-2 was approved by the Belmont Town Meeting in May 1999 and by Town Referendum in July 1999 after a public process extending over more than three previous years. The adopted zoning provides for the development of a limited amount of land within and adjacent to the historic McLean Hospital campus in the context of conservation in perpetuity of at least 109.99 acres of McLean Hospital open space as provided in Said Restriction B-1 and B-2

### **III. Land Management Committee:**

The Premises shall be under the management responsibility and oversight of the Town of Belmont Land Management Committee established pursuant to the Memorandum of Agreement referenced above and to the Land Use and Management Plan to be entered into between the Grantor and the Town of Belmont. It is the intent of the Land Management Committee to retain the services of a Management Agent pursuant to the Land Use and Management Plan to implement its policies and to perform the day-to-day management activities. Funding for the Management Agent is expected from a dedicated portion of the revenue stream from any and all contracts the Town of Belmont may enter into with private users collocating on the public telecommunications facility.

### **IV. Prohibited Acts and Uses, Exceptions Thereto, and Permitted Uses:**

A. Prohibited Acts and Uses. Subject to the exceptions set forth in Paragraph B below, the Premises (including, without limitation, any body of water thereon) shall be continued in their present undeveloped and natural condition and shall not be used for residential, industrial, institutional, or commercial use. The following acts and uses are prohibited on the Premises:

1. Constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above or below the Premises;
2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit; unless such excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit is a temporary activity directly associated with any use or activity permitted herein;
3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material or the installation of underground storage tanks; unless such placing, filling, or storing of soil or other non-toxic, non-

hazardous substance or material is a temporary activity directly associated with any use or activity permitted herein;

4. Cutting, removing or otherwise destroying trees, grasses or other vegetation;

5. The subdivision of the Premises, except as necessary to convey a portion of the Premises to the Town of Belmont, to convey a buffer parcel of less than one-half acre to the owners of the abutting Cosman parcel (provided that in such event, the land so conveyed shall be subject to the further restriction that no portion thereof may be used in calculating lot area, frontage or other zoning dimensional requirements with respect to the abutting Cosman parcel) or to convey the existing recreational field on the Premises;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation;

7. The use of motorcycles, motorized trail bikes, snowmobiles and all other motor vehicles, except as required by the Americans with Disabilities Act (ADA), police, firemen or other governmental agents in carrying out their lawful duties and except for cars, trucks and farm vehicles reasonably necessary for purposes permitted by this Conservation Restriction;

8. Team sport activities, such as soccer, field hockey, baseball or softball (except on the existing "Claflin" recreational field on the Premises as shown on Exhibit A); horseback riding; bicycles; or walking of unleashed dogs;

9. Inclusion of the Premises or any portion thereof as part of the gross area of other property not subject to this Conservation Restriction for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations, or ordinances controlling land use and building density; and

10. Any other use of the Premises or activity which would materially impair significant conservation interests unless necessary for the protection of the conservation values that are the subject of this Conservation Restriction.

**B. Exceptions to Otherwise Prohibited Acts and Uses.** The following acts and uses otherwise prohibited in paragraph A are permitted, but only if such acts or uses do not materially impair significant conservation interests as determined by the Grantee, and only in accordance with the Plan (as defined in Section C.13):

1. Hiking, cross-country skiing, bird watching, and other similar passive, outdoor recreational uses, provided that such uses are consistent with the conservation purposes of this Conservation Restriction. The members of the public are hereby granted access to the trails shown on a plan approved by the Land Management Committee at its meeting on March 20, 2002. Such plan may be revised pursuant to Section B.2 below, subject to rules and regulations that may be adopted and posted from time to time by Grantee and the Land Management Committee, including the establishment of appropriate buffer zones with adjacent residences as determined by the Land Management Committee;
2. The maintenance, construction, relocation and closure of trails (including maintaining the fire roads to Belmont Fire Department standards) as determined by the Land Management Committee and approved by Grantor and Grantee. Such trails shall be illustrated on a plan reviewed, approved and posted from time to time by the Land Management Committee;
3. Non-motorized biking, provided that such use is approved by the Land Management Committee, the Grantee and the Grantor and is conducted on trail(s) designated for such use and under such conditions as are set by the Land Management Committee and approved by the Grantee and Grantor;
4. The construction, erection and maintenance of signs setting forth restrictions on the use of the Premises or identifying trails, locations, natural features or similar items and, with the prior approval of Grantee, the construction, erection, maintenance and use of kiosks or other minor or temporary structures for educational and management purposes;
5. The mowing of existing fields and meadows, so long as the same is scheduled and conducted in a manner which avoids the nesting season of field birds located at the Premises;
6. The use of emergency response vehicles; and the use of mowers, tractors or other motorized vehicles utilized for upkeep, maintenance and management of the Premises;
7. The right, but not the obligation, to monitor and study, or to permit others to monitor and study, plant and animal populations, plant communities, natural habitats, historic landscapes, landscape features and archeological sites on the Premises, all with prior written approval from Grantee;
8. The right to conduct, or permit others to conduct, management of the Premises for the benefit primarily of native flora and fauna (including ecologically appropriate methods to promote native species and to manage invasive species by chemical or non-chemical means) and/or for the



purpose of identifying and restoring and protecting historic landscapes, landscape features and archeological sites within the Premises, with prior written approval from Grantee;

**9.** The use of the Premises for educational programs, subject to the approval of the Land Management Committee, designed to increase the public's knowledge, understanding and appreciation of the natural world or of historic and archeological aspects of the Premises, including without limitation the right to conduct tours, nature walks, and ecological, environmental, historic or archeological research;

**10.** The construction (with the prior approval of Grantee), maintenance and use of parking areas accessory to the recreational, educational and management uses permitted hereunder (but not municipal cemetery use). The construction, maintenance and use of a bike path along the Pleasant Street edge of the Premises;

**11.** Construction, maintenance and use of vehicular and pedestrian access ways, and infrastructure, (such as drainage, gas, water and sewer systems) serving the unrestricted adjacent land of Grantor (including Zone 6 and the structures at 248 Mill Street), but only within those areas identified as "Vehicular & Pedestrian Access Areas" on the plan attached hereto as Exhibit B, which Exhibit is based upon a plan titled "McLean Hospital Reuse Master Plan, Belmont, Massachusetts, Prepared by Design Consultants, Inc.," recorded in the Middlesex County Registry of Deeds at Book 2005, Page 126. Construction, maintenance and use or a widening or alteration of layout of Pleasant Street;

**12.** The installation, maintenance and use of new underground utilities including electric, telephone, water supply, sanitary sewer, natural gas, cable television, fiberoptic cable, and similar communication systems, but not storm sewers and drainage systems, to serve the unrestricted adjacent land of the Grantor (including Zone 6 and the structures at 248 Mill Street) is permitted with prior notice to the Grantee provided that such utilities are located and constructed in a manner which minimizes the impact on the conservation values of the Premises as determined by the Land Management Committee.

**13.** The replacement and maintenance of existing utility and communication facilities on the Premises are permitted with prior notice to the Land Management Committee and the Grantee. The existing utility facilities including the water line as detailed in the Design & Site Plan Approvals granted by the Belmont Planning Board, dated 12/03/01 are not illustrated on Exhibit C. The existing, relocated telecommunication facilities (both aboveground and buried) are shown on Exhibit C to this Conservation Restriction. With respect to the communications tower, replacement of such tower (with the result that no more than one tower shall be located on the

Premises protected by Conservation Restrictions B-1 and B-2) may include relocation, together with necessary appurtenant structures and landscaping, and possible expansion of users thereon including a private user(s) under contract with the Town of Belmont as follows:

- a. that written notice and plans including elevation drawings for such relocation and construction have been provided for review and comment by the Land Management Committee and the Grantee;
- b. that such relocation is within the area designated on Exhibit C attached hereto;
- c. that reasonable measures have been taken at ground level to reduce the visual impact of the tower and associated structures and facilities, including but not limited to the access drive, fencing, and exterior materials;
- d. that in the case of structures, facilities, and equipment to be used by private lessees, prior written approval of the Land Management Committee and the Grantee shall be required upon a finding that said structures and facilities, considered in the context of their location, size and materials and of mitigating measures and conditions, will not have an undue negative impact upon the conservation values of the premises.

**14.** Use, maintenance and replacement of the so-called "Claflin" recreational field (as identified on Exhibit A), and of the underground drainage, sprinkler and emergency fire lane support systems as approved by the Town of Belmont as part of the expansion of the Belmont Day School described in the Belmont Planning Board Design & Site Plan Approval in Case No. PB01-02, and the reasonable alteration or enlargement of such systems, subject to the prior written approval of the Land Management Committee and the Grantee, provided that such alteration or enlargement is not for the purpose of allowing further expansion of the Belmont Day School or the recreational field.

**15.** The historically and architecturally significant Barn located at 248 Mill Street may be renovated (including new infrastructure), used, and maintained for such uses as environmental education, the storage of materials and equipment associated with management of the Premises or management of the cemetery area, and office space for staff of the cemetery and/or the Premises. The existing house located to the west of Mill Street may be renovated, used, and maintained for activities or uses permitted by this Conservation Restriction. The historically significant Pleasant Street Lodge may be renovated, used and maintained for uses ancillary to the uses allowed on the adjacent land of Grantor.

**16.** The installation of the screening within the open space abutting Zone 1A (as illustrated on the "Concept Site Plan for Proposed Planting At Zone 1A", prepared in cooperation with the McLean Implementation Committee and the McLean Land Management Committee (dated June 18,

2000)) even though it is located on the open space land to be owned by the Town.

- C. **Ecological Management Plan.** An Ecological Management Plan (the "Plan", dated May 2001 by the BSC Group) has been developed for the Premises that sets forth measures to preserve and protect its natural resources, including its meadows, forests and wetlands. The Plan allows for passive outdoor recreational uses of the Premises by the public while identifying and documenting areas of significant ecological value. The Plan provides methods for managing those areas to help protect and enhance native plants and wildlife. These methods include mowing, pruning of trees, removal of invasive species, planting of trees and shrubs, and other activities deemed appropriate by the Land Management Committee, the Grantor, and the Grantee. The Plan may be amended from time to time by the Land Management Committee, subject to approval by the Grantor and the Grantee.
- D. **Permitted Acts and Uses.** All acts and uses not prohibited by paragraphs A and B are permissible if they are clearly consistent with the conservation purposes of this Conservation Restriction and with prior written approval of the Land Management Committee, Grantor, and the Grantee. Permitted acts and uses may be further regulated as recommended by the Plan or consistent with the Plan so as to protect native plants and wildlife and the scenic and historic quality of the landscape. Particular attention will be paid to the protection of bird habitat, which may require certain specific regulations (including regulation of otherwise permitted uses) during the nesting season. All uses must comply with local, state, and federal laws.
- E. **Notice and Approval.** Whenever notice to or approval is required under the provisions of paragraphs A or B, such notice shall be provided in writing not less than sixty (60) days prior to the date the activity in question is to be undertaken. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where approval is required, such approval shall be granted or withheld in writing within sixty (60) days of receipt of the written request therefor. Approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction. Failure to respond in writing within such 60 days shall be deemed to constitute approval of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time.

**V. Legal Remedies of the Grantee:**

**A. Legal and Injunctive Relief.** The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee.

**B. Reimbursement of Costs of Enforcement.** Grantor and thereafter the successors and assigns of the Grantor covenant and agree to reimburse Grantee all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or its successors and assigns or is determined by a court of competent jurisdiction to have occurred and that such court determines that reimbursement shall occur and so orders (or Grantor, or its successors and assigns and Grantee agree to such reimbursement). The reimbursement obligation of any party hereunder shall be limited to violations caused or permitted by said party within a portion of the Premises then owned by such party.

**C. Grantee's Disclaimer of Liability.** By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises, including without limitation the condition of former disposal areas, both known and unknown.

**D. Non-Waiver.** Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

**VI. Access:**

The members of the public are hereby granted access to the trails shown on a plan approved by the Land Management Committee at its meeting on March 20, 2002. Such plan may be revised pursuant to Section IVB.2, subject to rules and regulations that may be adopted and posted from time to time by Grantee and the Land Management Committee, including the establishment of appropriate buffer zones with adjacent residences as determined by the Land Management Committee. The Conservation Restriction hereby conveyed does not grant to the Grantee, or to the public generally, or to any other person any right to enter upon the Premises, except as provided herein and except that there is granted to the Grantee and its successors, assigns, agents and representatives the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of inspecting the same to determine compliance herewith.

**VII. Assignability:**

**A. Running of the Burden.** The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

**B. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor on behalf of itself and its successors and assigns appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.**

**C. Running of the Benefit.** The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instances and from time to time:

**i. as a condition of any assignment, the Grantee requires that the purpose of this Conservation Restriction continue to be carried out, and**

**ii. the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the General Laws as an eligible donee to receive these Conservation Restrictions directly.**

**iii. it is understood that Grantee may in its discretion assign an interest in this Conservation Restriction temporarily or in perpetuity to a qualified Grantee of such a restriction, including but not limited to a state conservation agency of the Commonwealth of Massachusetts, in order to obtain assistance in enforcing this Conservation Restriction.**

**VIII. Subsequent Transfers:**

The Grantor agrees to incorporate by reference the terms of this Conservation in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including a leasehold interest.

**IX. Estoppel Certificates:**

Upon request by the Grantor, its successors and assigns, the Grantee shall within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.



**X. Effective Date:**

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded, or if registered land, it has been registered.

**XI. Miscellaneous.**

(a) Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

(e) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(f) Pre-existing rights of the Public. Approval of this Conservation Restriction pursuant to M.G.L Chapter 184, Section 32 by any municipal officials and by the Secretary of Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

(g) If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Conservation Restriction; provided that any such amendment must also be agreed to in writing by the Town of Belmont, ratified by a majority vote of Town Meeting, the Board of Selectmen, and the Secretary of the Executive Office for Environmental Affairs; provided further that any such amendment shall be consistent with the purpose of this Conservation Restriction, shall not affect its perpetual duration, and shall not permit any impairment of the significant conservation

values of the Premises. Any such amendment shall be recorded in the Middlesex County Registry of Deeds.

**XII. Recordation:**

The Grantor shall record this instrument in timely fashion in the Middlesex County Registry of Deeds.

Executed under seal this 19th day of May, 2005.

THE McLEAN HOSPITAL CORPORATION

By: 

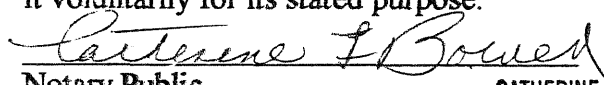
Its Duly Authorized President/Psychiatrist in Chief

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, ss.

Date: May 19, 2005

Then personally appeared the above-named Bruce M. Cohen, M.D., Ph.D. and proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) (a current driver's license) (a current U.S. passport), to be the person whose name is signed on the document and acknowledged to me that they signed it voluntarily for its stated purpose.

  
Notary Public

My Commission Expires

CATHERINE F. BOWEN

NOTARY PUBLIC

MY COMMISSION EXPIRES OCT. 10, 2008

## ACCEPTANCE BY THE TRUSTEES OF RESERVATIONS

Executed under seal this 17<sup>th</sup> day of May, 2005.

THE TRUSTEES OF RESERVATIONS

By: [Signature]

Its Duly Authorized Executive Director

## COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE ss.

Date: MAY 17, 2005

Then personally appeared the above-named ANDREW W. KENDALL and proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) ~~(a current driver's license)~~ ~~(a current U.S. passport)~~, to be the person whose name is signed on the document and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature: Sydney Smithers]

Notary Public  
My Commission Expires



F. SYDNEY SMITHERS  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
June 30, 2008

## APPROVAL OF THE TOWN OF BELMONT

Executed under seal as of the date first above written.

Town of Belmont

By: Paul Solomon

Selectman

By: Angelo Fivanzo

Selectman

By: William N. Brownsberger

Selectman

## COMMONWEALTH OF MASSACHUSETTS

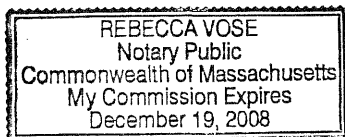
MIDDLESEX, ss

Date: May 13, 2005

Then personally appeared the above-named Paul Solomon,  
Angelo Fivanzo, and William N. Brownsberger and proved to me  
through satisfactory evidence of identification, which was (personal knowledge of  
identity) (a current driver's license) (a current U.S. passport), to be the persons whose  
names are signed on the document and acknowledged to me that they signed it  
voluntarily for its stated purpose.

Rebecca Vose

Notary Public

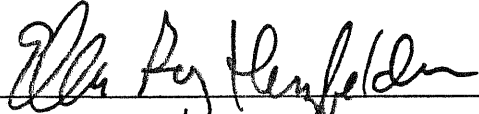
My Commission Expires December 19, 2008

## APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS

## COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to The Trustees of Reservations has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: June 1, 2005

  
Secretary of Environmental Affairs

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Date June 1, 2005

Then personally appeared the above-named Alex Roy Henfield and proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) (~~a current driver's license~~) (~~a current U.S. passport~~), to be the person whose name is signed on the document and acknowledged to me that they signed it voluntarily for its stated purpose.



Notary Public

My commission expires: 12/15/2011

CONSERVATION RESTRICTION B-1  
EXHIBIT A

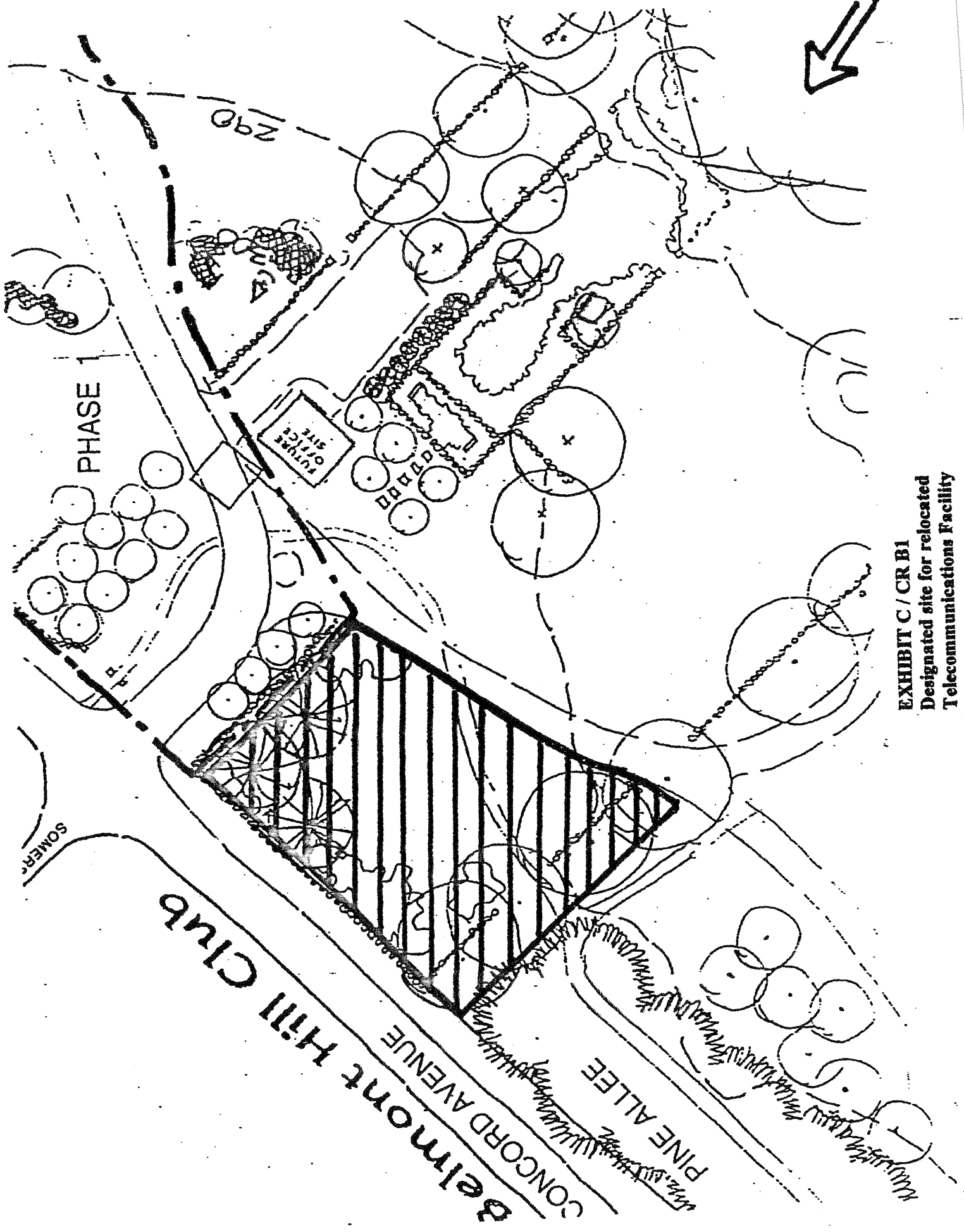
Being the following "Conservation Restriction Areas" as shown on a plan entitled "McLean Hospital Reuse Master Plan, Belmont, Massachusetts, Prepared by Design Consultants, Inc.," dated February 22, 1999 and recorded in the Middlesex County South District Registry of Deeds as Plan No. 126 of 2005: the area shown as "Public Open Space" and located adjacent to and to the west of Mill Street, containing 4.58 acres; the area shown as "Soccer Field," containing 1.46 acres; the area shown as "100' Buffer", containing 2.83 acres; the area shown as "Public Open Space" and located adjacent to and to the north of Pleasant Street, containing 27.23 acres; and the area shown as "Public Open Space" and located adjacent to and to the south of Concord Avenue, which area contains 73.89 acres; the total of said Conservation Restriction Areas being 109.99 acres.

For title, see Deed recorded with said Deeds, Book 14084, Page 272.

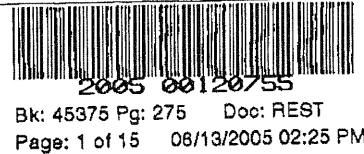


CONSERVATION RESTRICTION B-1  
EXHIBIT B

Being the following "Vehicular and Pedestrian Access Areas" as shown on a plan entitled "McLean Hospital Reuse Master Plan, Belmont, Massachusetts, Prepared by Design Consultants, Inc.," dated February 22, 1999 and recorded in the Middlesex County South District Registry of Deeds as Plan No. 126 of 2005: the area shown as "Public Open Space" and located adjacent to and to the west of Mill Street; the area shown as "Vehicular Access Easement" located south of Zone 1A and north of Zone 1B and linking said Zones; and the area shown as "Vehicular Access Area" located adjacent to and to the north of Trapelo Road and Pleasant Street.



**EXHIBIT C / CR B1**  
**Designated site for relocated**  
**Telecommunications Facility**



## CONSERVATION RESTRICTION B-2

### McLean Hospital Property, Cemetery Portion

#### Belmont, Massachusetts

#### I. Grantor Clause:

The McLean Hospital Corporation, a Massachusetts corporation having a usual address of 115 Mill Street, Belmont, MA ("Grantor") acting pursuant to Sections 31 et seq. of Chapter 184 of the General Laws, grants, with quitclaim covenants, to The Trustees of Reservations, a Massachusetts nonprofit corporation having an address at 572 Essex Street, Beverly, MA 01915 ("Grantee") and its successors and assigns in perpetuity (except as provided in Section B.13 below) and exclusively for conservation purposes, the following described Conservation Restriction on a certain parcel of land located in the Town of Belmont, Massachusetts, constituting approximately 9.9 acres, said parcel being shown in Exhibit A attached (the "Premises") [said parcel being the "Cemetery" parcel as identified and shown on Exhibit A, excepting the four-acre parcel in the northeast corner identified as "Phase One," which has been designated by the Board of Cemetery Commissioners as the initial cemetery phase and excepting such additional acreage as may be designated pursuant to the provisions of Section IV.B13 below]. For Grantor's title, see deed from Massachusetts General Hospital to McLean Hospital, dated September 30, 1980 and recorded in the Middlesex County Registry of Deeds, Book 14084, Page 0272.

#### II. Purposes:

Together with the adjacent land protected by the McLean Hospital Restriction B-1, the Premises contain unusual, unique or outstanding qualities, the protection of which in their natural or open condition will be of benefit to the public. The qualities specifically relevant to the Premises include wooded habitat that is a portion of the mature forest known as the Eastern Woods, the adjacent red maple swamp and the vernal pool which are of high ecological value and provide significant habitat for wildlife. The planted rows of white pine known as the Pine Allee along Concord Avenue are important for their scenic and historic values. The location of the Premises as part of an emerging regional greenway, adds to the conservation significance of this parcel. Baseline documentation of the conservation values of the Premises has been prepared by Grantee and approved by Grantor and is available for review in the offices of Grantee.

In addition, this Restriction is an integral part of the Memorandum of Agreement between McLean Hospital and the Town of Belmont, entered into on November 22, 1999, which required the rezoning of the McLean Hospital property and the establishment of Conservation Restrictions B-1 and B-2. Said Memorandum, including Restrictions B-1 and B-2 was approved by the Belmont Town Meeting in May 1999 and by Town Referendum in July 1999 after a public process extending over more than three previous years. The adopted zoning provided for the development of a limited amount of land within and adjacent to the historic McLean Hospital campus in the context of conservation in

**RETURN TO**  
**HEMENWAY & BARNES**  
 60 State Street  
 Boston, MA 02109  
 Attn: SYB

Premises: "McLean District", Belmont, MA  
 a/k/a Mill Street, Belmont, MA

perpetuity of at least 110 acres of McLean Hospital open space as provided in said Restrictions B-1 and B-2. With reference to this Restriction B-2, said Memorandum provided for the initial development of a 4-acre public cemetery (which has been excluded from the Premises of Restriction B-2) by the Town of Belmont Cemetery Commission, and, following a later majority vote of the Town Meeting, the expansion of that cemetery within the Premises protected by this Restriction B-2. The purpose of Restriction B-2 in this regard is to assure the public that the Premises will be protected from development in perpetuity or until such time as the Town Meeting authorizes an expansion of the cemetery. This assurance was a key point in the complex negotiation among stakeholders that resulted in the approval of said Memorandum. In addition, this Restriction will provide continued protection of any portion of the Premises that ceases to be used for cemetery purposes.

### **III. Land Management Committee:**

The Premises shall be under the management responsibility and oversight of the Town of Belmont Land Management Committee established pursuant to said Memorandum and to the Land Use and Management Plan to be entered into between the Grantor and the Town of Belmont. It is the intent of the Land Management Committee to retain the services of a Management Agent pursuant to the Land Use and Management Plan to implement its policies and to perform the day-to-day management activities. Funding for the Management Agent is expected from a dedicated portion of the revenue stream from any and all contracts the Town of Belmont may enter into with private users co-locating on the public telecommunications facility.

### **IV. Prohibited Acts and Uses, Exceptions Thereto, and Permitted Uses:**

**A. Prohibited Acts and Uses.** Subject to the exceptions set forth in Paragraph B below, the Premises (including, without limitation, any body of water thereon) shall be continued in their present undeveloped and natural condition and shall not be used for residential, industrial, institutional, or commercial use. The following acts and uses are prohibited on the Premises:

1. Constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above or below the Premises;
2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit; unless such excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit is a temporary activity directly associated with any use or activity permitted herein;
3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other

substance or material or the installation of underground storage tanks; unless such placing, filling, or storing of soil or other non-toxic, non-hazardous substance or material is a temporary activity directly associated with any use or activity permitted herein;

4. Cutting, removing or otherwise destroying trees, grasses or other vegetation;

5. The subdivision of the Premises;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation;

7. The use of motorcycles, motorized trail bikes, snowmobiles and all other motor vehicles, except as required by the Americans with Disabilities Act (ADA), police, firemen or other governmental agents in carrying out their lawful duties and except for cars, trucks and farm vehicles reasonably necessary for purposes permitted by this Conservation Restriction;

8. Team sport activities, such as soccer, field hockey, baseball or softball; horseback riding; bicycles; or walking of unleashed dogs;

9. Inclusion of the Premises or any portion thereof as part of the gross area of other property not subject to this Conservation Restriction for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations, or ordinances controlling land use and building density; and

10. Any other use of the Premises or activity which would materially impair significant conservation interests unless necessary for the protection of the conservation values that are the subject of this Conservation Restriction.

**B. Exceptions to Otherwise Prohibited Acts and Uses.** The following acts and uses otherwise prohibited in paragraph A are permitted, but only if (except as noted in Section B.13) such acts or uses do not materially impair significant conservation interests as determined by the Grantee, and only in accordance with the Plan (as defined in Section C.11):

1. Hiking, cross-country skiing, bird watching, and other similar passive outdoor recreational uses, provided that such uses are consistent with the conservation purposes of this Conservation Restriction. The members of the public are hereby granted access to the trails shown on a plan approved by the Land Management Committee at its meeting held on March 20, 2002. Such plan may be revised pursuant to Section B.2 below, subject to rules and regulations that may be adopted and posted from time to time by the Grantee and the Land Management Committee, including the establishment

of appropriate buffer zones with adjacent residences as determined by the Land Management Committee;

2. The maintenance, construction, relocation and closure of trails (including maintaining the fire roads to Belmont Fire Department standards) as determined by the Land Management Committee and approved by Grantor and Grantee. Such trails shall be illustrated on a plan reviewed, approved and posted from time to time by the Land Management Committee;

3. Non-motorized biking, provided that such use is approved by the Land Management Committee, the Grantee and the Grantor and is conducted on trail(s) designated for such use and under such conditions as are set by the Land Management Committee and approved by the Grantee and Grantor;

4. The construction, erection and maintenance of signs setting forth restrictions on the use of the Premises or identifying trails, locations, natural features or similar items and, with the prior approval of Grantee, the construction, erection, maintenance and use of kiosks or other minor or temporary structures for educational and management purposes;

5. The mowing of existing fields and meadows, so long as the same is scheduled and conducted in a manner which avoids the nesting season of field birds located at the Premises;

6. The use of emergency response vehicles; and the use of mowers, tractors or other motorized vehicles utilized for upkeep, maintenance and management of the Premises;

7. The right, but not the obligation, to monitor and study, or to permit others to monitor and study, plant and animal populations, plant communities, natural habitats, historic landscapes, landscape features and archeological sites on the Premises with prior written approval from Grantee;

8. The right to conduct, or permit others to conduct, management of the Premises for the benefit of native flora and fauna (including ecologically appropriate methods to promote native species and to manage invasive species by chemical or non-chemical means) and/or for the purpose of identifying and restoring historic landscapes, landscape features and archeological sites within the Premises, with prior written approval from Grantee;

9. The use of the Premises for educational programs, subject to the approval of the Land Management Committee, designed to increase the public's knowledge, understanding and appreciation of the natural world or of historic and archeological aspects of the Premises, including without limitation the right to conduct tours, nature walks, and ecological, environmental, historic or archeological research;



10. The construction (with the prior approval of Grantee), maintenance and use of parking areas accessory to the recreational, educational and management uses permitted hereunder (other than municipal cemetery use);

11. The installation, maintenance and use of new underground utilities including electric, telephone, water supply, sanitary sewer, natural gas, cable television, fiberoptic cable, and similar communication systems, but not storm sewers and drainage systems, to serve the unrestricted adjacent land of the Grantor (including Zone 6 and the structures at 248 Mill Street) is permitted with prior notice to the Grantee and the Belmont Cemetery Commission provided that such utilities are located and constructed in a manner which minimizes the impact on the conservation values of the Premises (as determined by the Land Management Committee) and minimizes the impacts on the future use of the Premises for cemetery use (as determined by the Belmont Cemetery Commission);

12. The replacement, and maintenance of existing utility (including the water line as detailed in the Design & Site Plan Approvals granted by the Belmont Planning Board, dated 12/03/01 but not illustrated on Exhibit B) and communication facilities on the Premises are permitted with prior notice to the Land Management Committee and the Grantee. The designated site for the existing, relocated telecommunication facilities (both above-ground and buried) is shown on Exhibit B to this Conservation Restriction. With respect to the communications tower, replacement of such tower (with the result that no more than one tower shall be located on the Premises protected by Conservation Restrictions B-1 and B-2) may include relocation, together with necessary appurtenant structures and landscaping, and possible expansion of users thereon including a private user(s) under contract with the Town of Belmont provided as follows:

- a. that written notice and plans including elevation drawings for such relocation and construction have been provided for review and comment by the Land Management Committee and the Grantee;
- b. that such relocation is within the area designated on Exhibit B attached hereto;
- c. that reasonable measures have been taken at ground level to reduce the visual impact of the tower and associated structures and facilities, including but not limited to the access drive, fencing, and exterior materials;
- d. that in the case of structures, facilities, and equipment to be used by private lessees, prior written approval of the Land Management Committee and the Grantee shall be required upon a finding that said structures and facilities, considered in the context of their location, size and materials and of mitigating measures and

conditions, will not have an undue negative impact upon the conservation values of the premises.

13. Use of one or more portions of the Premises as a municipal cemetery, including accessory structures and parking, provided that (a) any portion of the Premises intended for such use shall have been expressly designated for such use by a majority vote of a Town Meeting of the Town of Belmont (such vote not being required for (i) preliminary planning activities such as surveying or subsurface testing so long as such activities are temporary and the Premises are thereafter restored to substantially their pre-existing condition or (ii) cemetery activities such as the scattering of ashes which do not alter the pre-existing condition of the Premises or have an adverse effect on the conservation values thereof); (b) nothing herein shall be deemed to limit the discretion of the Town of Belmont (acting by a majority vote of a Town Meeting) to designate a portion of the Premises for such use at any time; and (c) nothing herein shall be deemed to limit the ability of the Town of Belmont to develop a portion of the Premises so designated for such use in such a manner as it shall determine in its discretion; and (d) notwithstanding any provision hereof to the contrary, upon a majority vote of a Town Meeting of the Town of Belmont to designate a portion of the Premises for municipal cemetery use, this Restriction shall be of no further force and effect with respect to such portion of the Premises while such portion of the premises is used for cemetery purposes.

- C. **Ecological Management Plan.** An Ecological Management Plan (the "Plan", dated May 2001 by the BSC Group) has been developed for the Premises that sets forth measures to preserve and protect its natural resources, including its meadows, forests and wetlands. The Plan allows for passive outdoor recreational uses of the Premises by the public while identifying and documenting areas of significant ecological value. The Plan provides methods for managing those areas to help protect and enhance native plants and wildlife. These methods include mowing, pruning of trees, removal of invasive species, planting of trees and shrubs, and other activities deemed appropriate by the Land Management Committee, the Grantor, and the Grantee. The Plan may be amended from time to time by the Land Management Committee, subject to approval by the Grantor and the Grantee.
- D. **Permitted Acts and Uses.** All acts and uses not prohibited by paragraphs A and B are permissible if they are clearly consistent with the conservation purposes of this Conservation Restriction and with prior written approval of the Land Management Committee, Grantor, and the Grantee. Permitted acts and uses (except as noted in Section B.13) may be further regulated as recommended by the Plan or consistent with the Plan so as to protect native plants and wildlife and the scenic and historic quality of the landscape. Particular attention will be paid to the protection of bird habitat, which may require certain specific regulations (including regulation of otherwise

permitted uses) during the nesting season. All uses must comply with local, state, and federal laws.

- E. **Notice and Approval.** Whenever notice to or approval is required under the provisions of paragraphs A or B, such notice shall be provided in writing not less than sixty (60) days prior to the date the activity in question is to be undertaken. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where approval is required, such approval shall be granted or withheld in writing within sixty (60) days of receipt the written request therefor. Approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction. Failure to respond in writing within such 60 days shall be deemed to constitute approval of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time.

**V. Legal Remedies of the Grantee:**

- A. **Legal and Injunctive Relief.** The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee.
- B. **Reimbursement of Costs of Enforcement.** Grantor and thereafter the successors and assigns of the Grantor covenant and agree to reimburse Grantee all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Restriction is acknowledged by Grantor or its successors and assigns or is determined by a court of competent jurisdiction to have occurred and that such court determines that reimbursement shall occur and so orders (or Grantor, or its successors and assigns and Grantee agree to such reimbursement). The reimbursement obligation of any party hereunder shall be limited to violations caused or permitted by said party within a portion of the Premises then owned by such party.
- C. **Grantee's Disclaimer of Liability.** By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises, including without limitation the condition of former disposal areas, both known and unknown.
- D. **Non-Waiver.** Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

**VI. Access:**

The members of the public are hereby granted access to the trails shown on a plan approved by the Land Management Committee at its meeting on March 20, 2002. Such plan may be revised pursuant to Section IVB.2, subject to rules and regulations that may be adopted and posted from time to time by Grantee and the Land Management Committee, including the establishment of appropriate buffer zones with adjacent residences as determined by the Land Management Committee. The Conservation Restriction hereby conveyed does not grant to the Grantee, or to the public generally, or to any other person any right to enter upon the Premises, except as provided herein and except that there is granted to the Grantee and its successors, assigns, agents and representatives the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of inspecting the same to determine compliance herewith.

**VII. Assignability:**

- A. Running of the Burden.** The burdens of this Conservation Restriction shall run with the Premises in perpetuity (except as provided in Section IV.B.13), and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.
- B.** The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor on behalf of itself and its successors and assigns appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.
- C. Running of the Benefit.** The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instances and from time to time:
  - i. as a condition of any assignment, the Grantee requires that the purpose of this Conservation Restriction continue to be carried out, and
  - ii. the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the General Laws as an eligible donee to receive this Conservation Restriction directly.
  - iii. it is understood that Grantee may in its discretion assign an interest in this Conservation Restriction temporarily or in perpetuity to a qualified Grantee of such a restriction, including but not limited to a state conservation agency of the Commonwealth of Massachusetts, in order to obtain assistance in enforcing this Conservation Restriction.

**VIII. Subsequent Transfers:**

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including a leasehold interest.

**IX. Estoppel Certificates:**

Upon request by the Grantor, its successors and assigns, the Grantee shall within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

**X. Effective Date:**

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded, or if registered land, it has been registered.

**XI. Miscellaneous.**

(a) Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of the Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Conservation Restriction, all of which are merged herein.

(e) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(f) Pre-existing rights of the Public. Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the

Secretary of Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

(g) If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Conservation Restriction; provided that any such amendment must also be agreed to in writing by the Town of Belmont, ratified by a majority vote of Town Meeting, the Board of Selectmen and the Secretary of the Executive Office for Environmental Affairs; provided further that any such amendment shall be consistent with the purpose of this Conservation Restriction, shall not affect its perpetual duration, and shall not permit any impairment of the significant conservation values of the Premises. Any such amendment shall be recorded in the Middlesex County Registry of Deeds.

## **XII. Recordation:**

The Grantor shall record this instrument in timely fashion in the Middlesex County Registry of Deeds.

Executed under seal this 19th day of May, 2005.

THE McLEAN HOSPITAL CORPORATION

By: [Signature]  
Its Duly Authorized President/Psychiatrist in Chief

## **COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, ss

Date May 19, 2005

Then personally appeared the above-named Bruce M. Cohen, M.D., Ph.D. and proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) (a current driver's license) (a current U.S. passport), to be the person whose name is signed on the document and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature]  
Notary Public  
My Commission Expires

CATHERINE F. BOWEN  
NOTARY PUBLIC  
MY COMMISSION EXPIRES OCT. 10, 2008

## ACCEPTANCE BY THE TRUSTEES OF RESERVATIONS

Executed under seal this 17<sup>th</sup> day of May, 2005.

THE TRUSTEES OF RESERVATIONS

By: *Andrew Kendall*

Its Duly Authorized

*Executive Director*.

## COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

May 17, 2005

Then personally appeared the above-named ANDREW W. KENDALL and proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) (~~a current driver's license~~) (~~a current U.S. passport~~), to be the person whose name is signed on the document and acknowledged to me that they signed it voluntarily for its stated purpose.

*F. Sydney Smithers*  
Notary Public

My Commission Expires



F. SYDNEY SMITHERS  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
June 30, 2006



## APPROVAL BY THE TOWN OF BELMONT

Executed under seal as of the date first above written.

Town of Belmont

By: Paul S. Soman

Selectman

By: Angelo R. Fierzu

Selectman

By: William N. Brownsburg

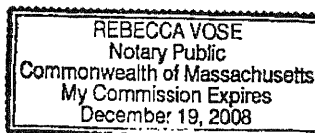
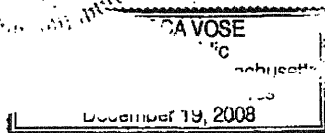
Selectman

## COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

Date: May 13, 2005

Then personally appeared the above-named Paul S. Soman,  
Angelo R. Fierzu, and William N. Brownsburg and  
 proved to me through satisfactory evidence of identification, which was (personal  
 knowledge of identity) (a current driver's license) (a current U.S. passport), to be the  
 persons whose names are signed on the document and acknowledged to me that they  
 signed it voluntarily for its stated purpose.


Rebecca Vose  
 Notary Public
My Commission Expires December 19, 2008

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to The Trustees of Reservations has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: June 1, 2005

William Roy Heyfelder  
Secretary of Environmental Affairs

**COMMONWEALTH OF MASSACHUSETTS**

Suffolk, ss.

Date June 1, 2005

Then personally appeared the above-named William Roy Heyfelder and proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) (a current driver's license) (~~a current U.S. passport~~), to be the person whose name is signed on the document and acknowledged to me that they signed it voluntarily for its stated purpose.

Michael P. Pineda  
Notary Public

My commission expires: 12/15/2011

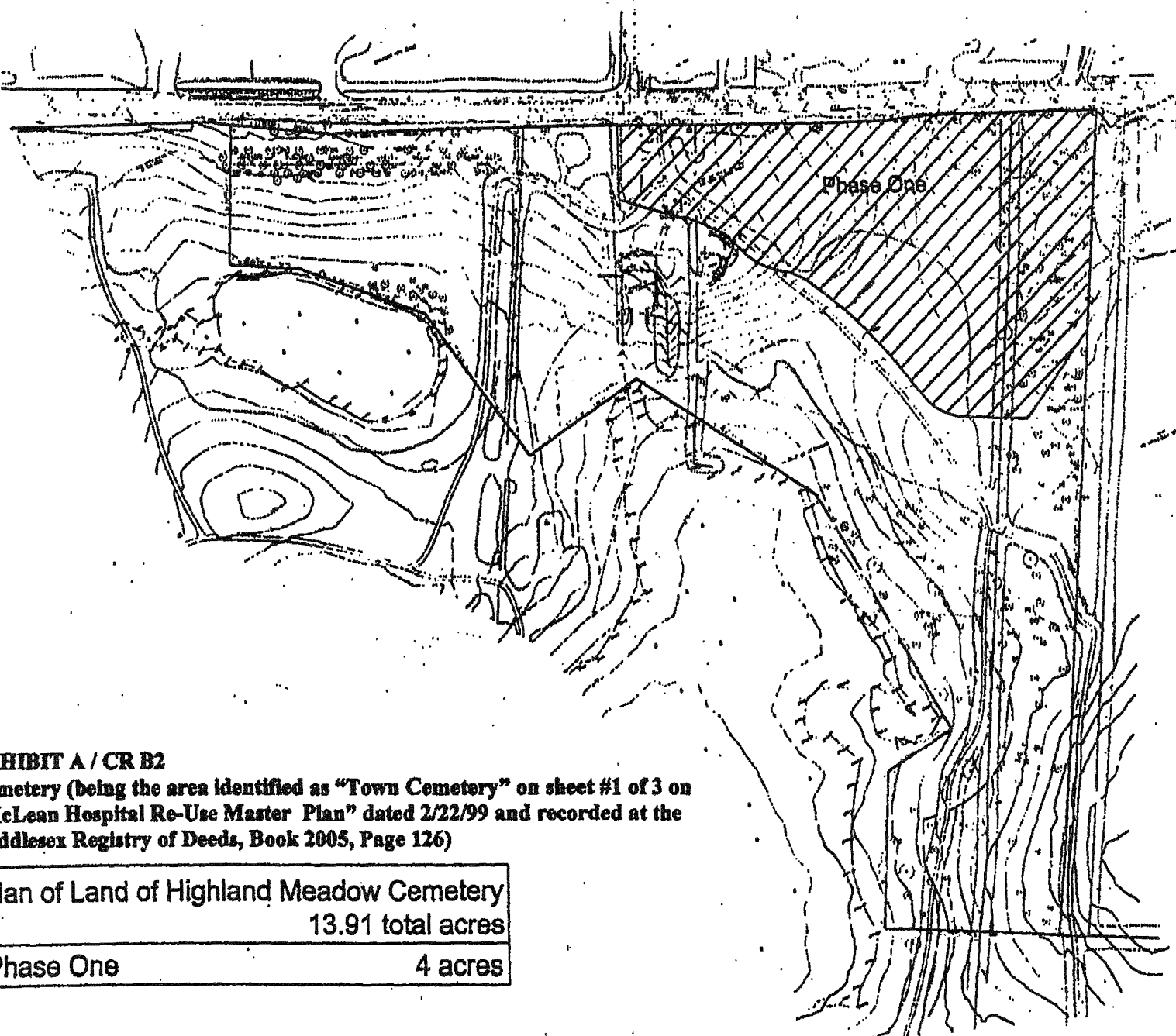


**EXHIBIT A / CR B2**

**Cemetery (being the area identified as "Town Cemetery" on sheet #1 of 3 on "McLean Hospital Re-Use Master Plan" dated 2/22/99 and recorded at the Middlesex Registry of Deeds, Book 2005, Page 126)**

Plan of Land of Highland Meadow Cemetery  
13.91 total acres

Phase One                      4 acres



For title, see Deed recorded with said Deeds, Book 14084, Page 272.

elmont Hill Club  
CONCORD AVENUE  
PINE ALLEE

SOMERS

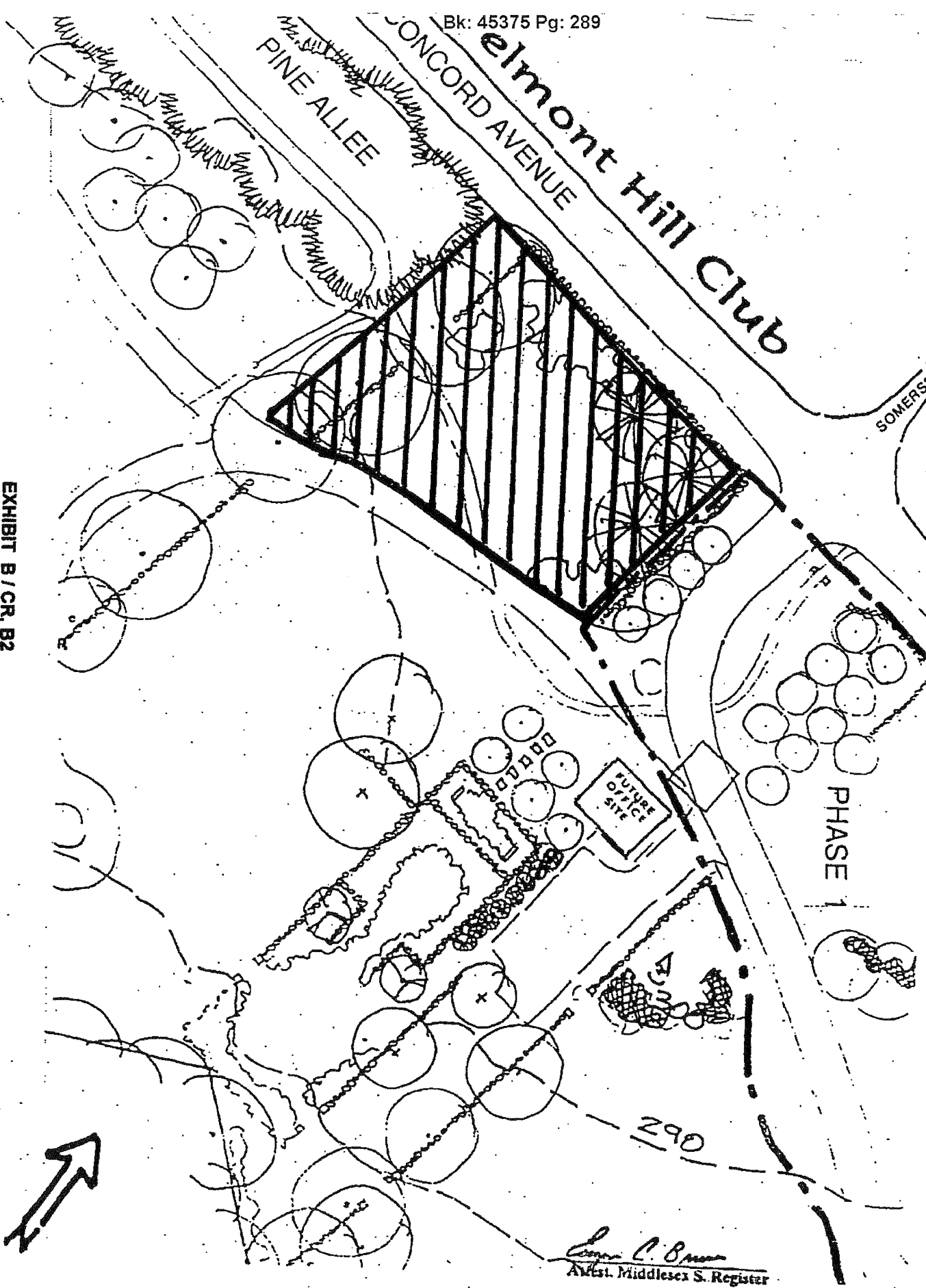
PHASE 1

FUTURE  
OFFICE  
SITE

062

*James C. Brown*  
Asst. Middlesex S. Register

EXHIBIT B / CR, B2  
Designated site for relocated  
Telecommunications Facility





**Exhibit A / CR,B1**

**Conservation Restriction Areas**

Public Open Space	Open Space Subdistrict	105.70 acres
Soccer Field	Open Space Subdistrict	1.46 acres
Conservation Buffer	McLean Institutional Subdistrict	2.83 acres
<b>TOTAL:</b>		<b>109.99 acres</b>

**PUBLIC  
OPEN SPACE**

4.58 acres

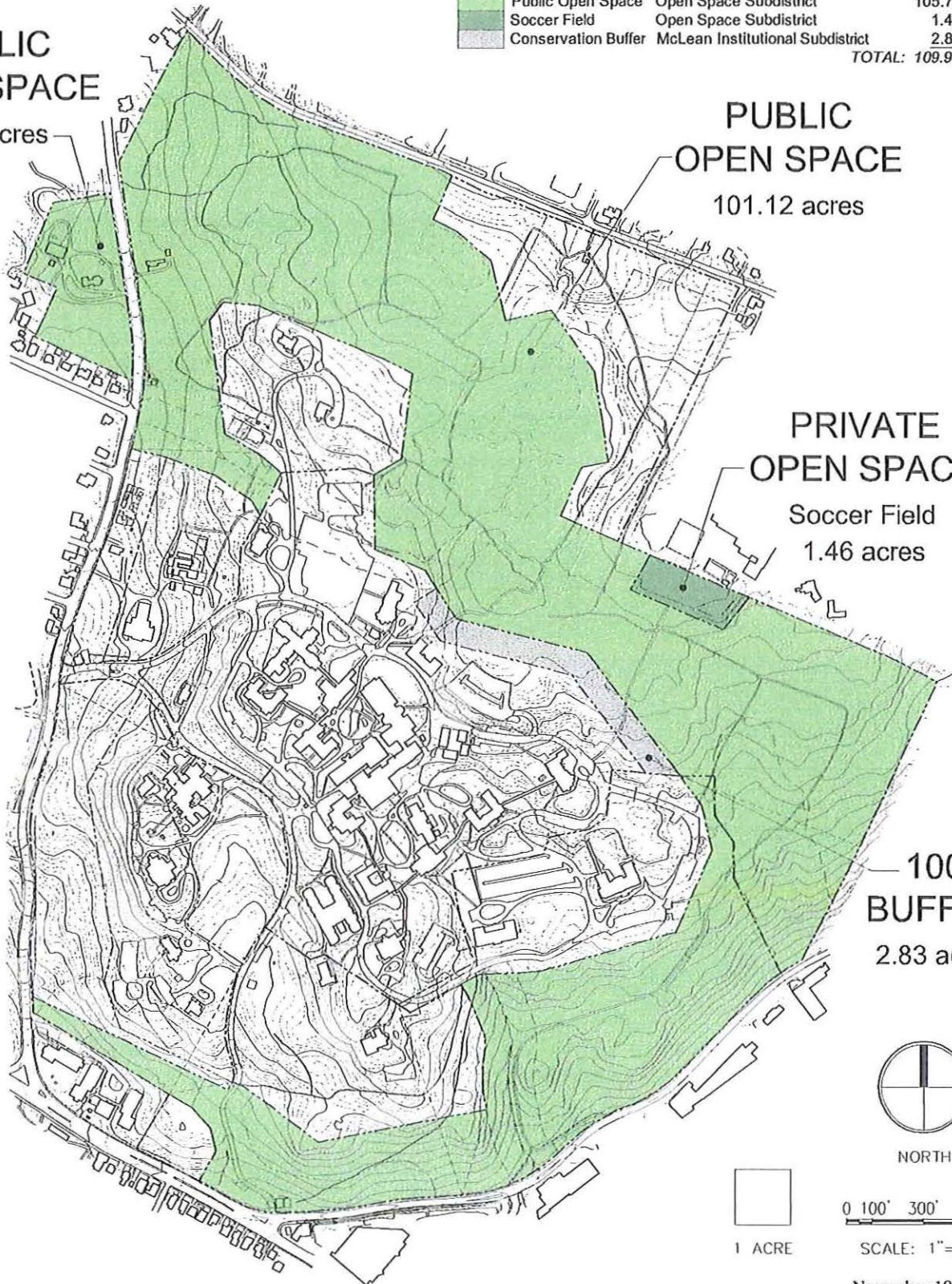
**PUBLIC  
OPEN SPACE**

101.12 acres

**PRIVATE  
OPEN SPACE**

Soccer Field  
1.46 acres

**100'  
BUFFER**  
2.83 acres



NORTH



1 ACRE

0 100' 300' 600'

SCALE: 1" = 600'

November 19, 1999

**The Keefe  
Company**

IN ASSOCIATION WITH:

**McLean District  
Zoning Map**

Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic



**Exhibit B / CR, B1  
Public Access Areas**

Public Open Space Open Space Subdistrict

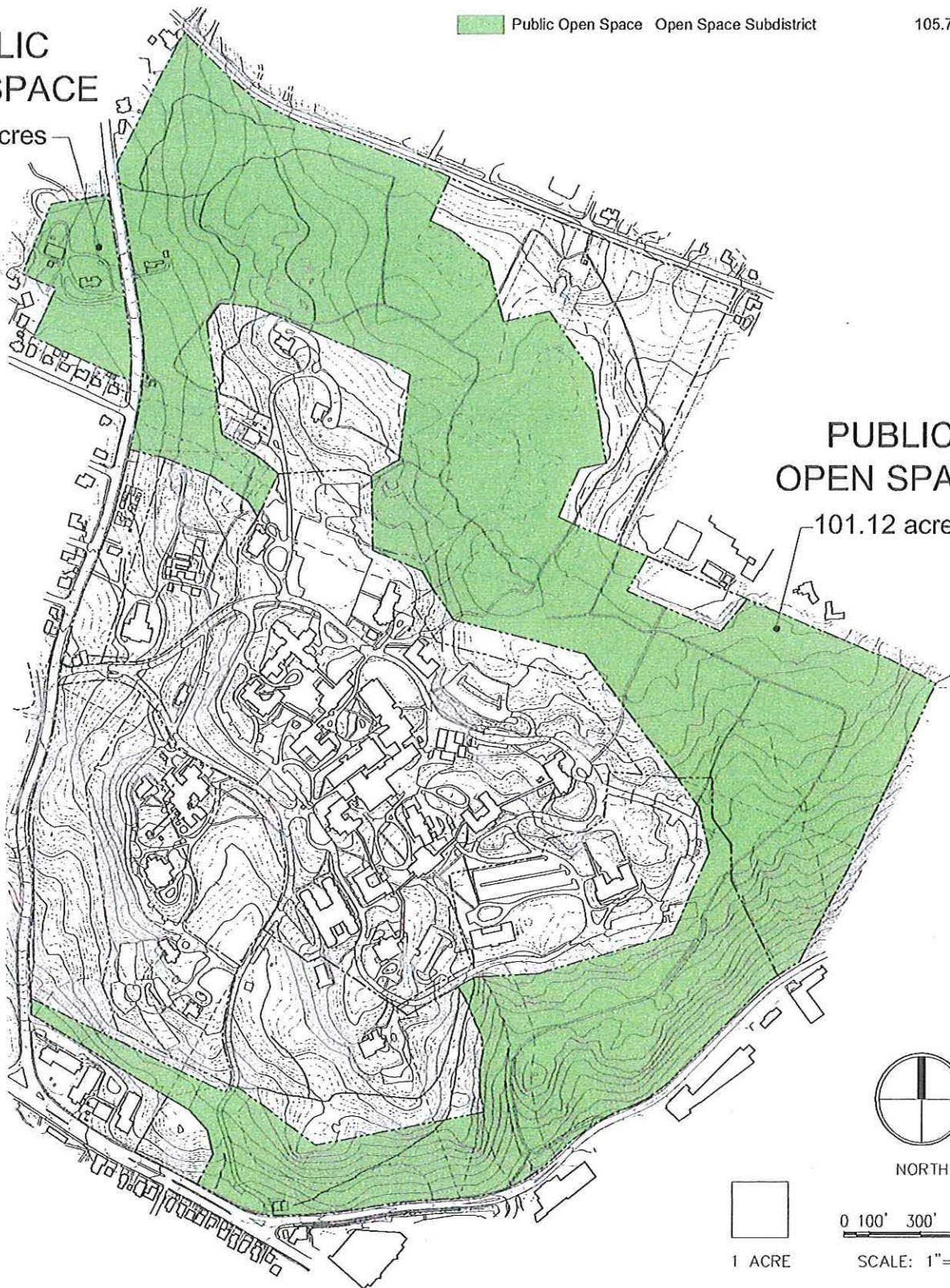
105.70 acres

**PUBLIC  
OPEN SPACE**

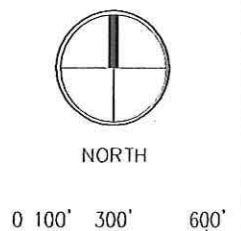
4.58 acres

**PUBLIC  
OPEN SPACE**

101.12 acres



1 ACRE



NORTH

SCALE: 1"=600'

November 19, 1999

**The Keefe  
Company**

IN ASSOCIATION WITH:

**McLean District  
Zoning Map**

Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic

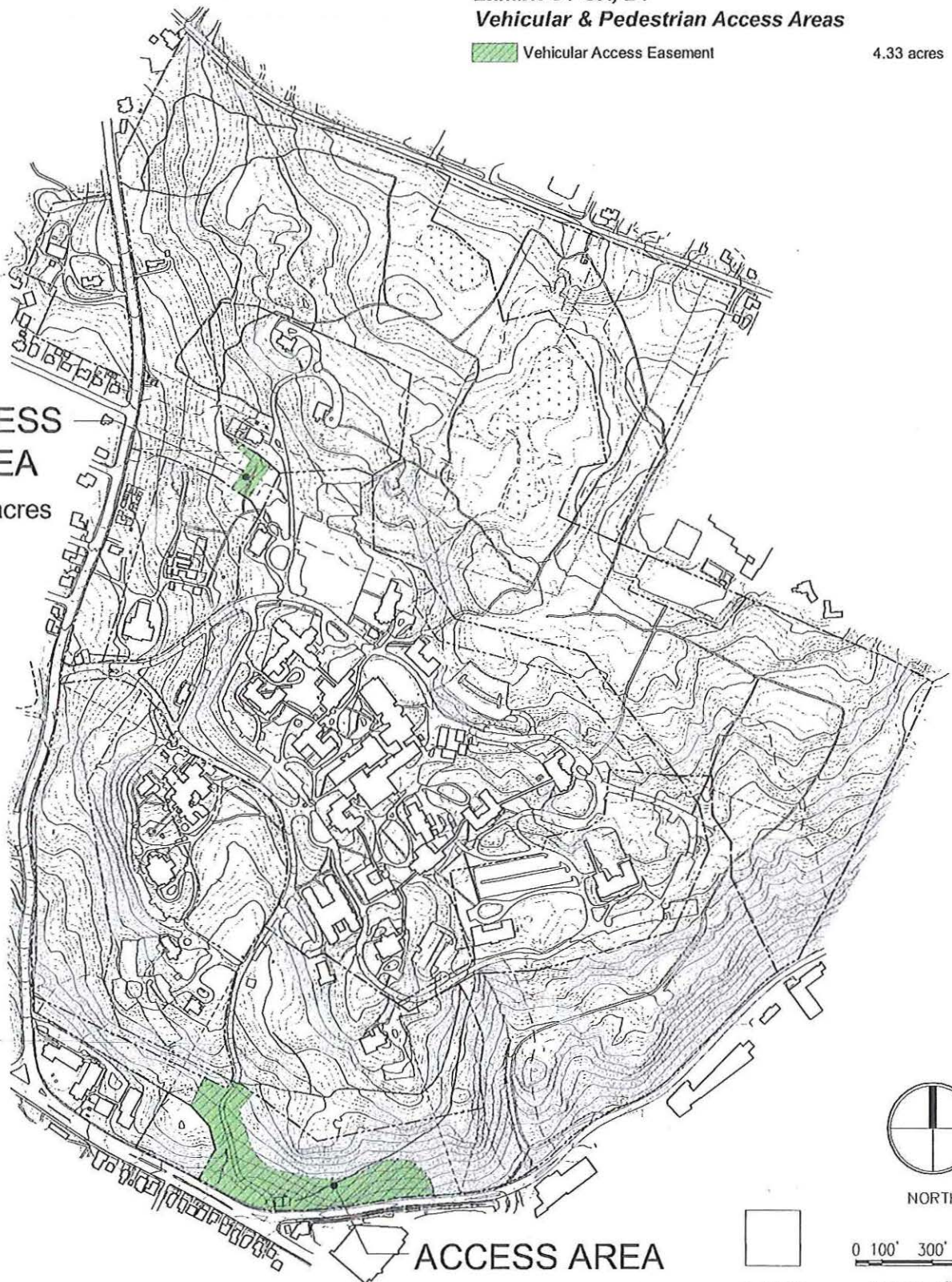


**Exhibit C / CR, B1**  
**Vehicular & Pedestrian Access Areas**

 Vehicular Access Easement

4.33 acres

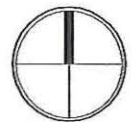
**ACCESS  
 AREA**  
 0.34 acres



**ACCESS AREA**  
 3.99 acres



1 ACRE



NORTH

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

The Keefe  
 Company

IN ASSOCIATION WITH:


**McLean District**  
**Zoning Map**  
 Belmont, Massachusetts

Pressley Associates, Inc.  
 Landscape Architects  
 Hemenway & Barnes, Attorneys  
 Frederic R. Harris, Architects  
 Walsh Brothers, Construction  
 Rizzo Associates, Traffic



**Exhibit A / CR, B2**

**Town Cemetery, Less 4 Acre 1st Phase**

 Town Cemetery

Cemetery Subdistrict

9.91 acres

**TOWN  
CEMETERY**

9.91 acres

4 ACRE FIRST PHASE  
CEMETERY EXCLUDED  
(AS DESIGNATED BY THE  
CEMETERY COMMISSION)



NORTH



1 ACRE

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

**The Keefe  
Company**


IN ASSOCIATION WITH:

**McLean District  
Zoning Map**  
Belmont, Massachusetts

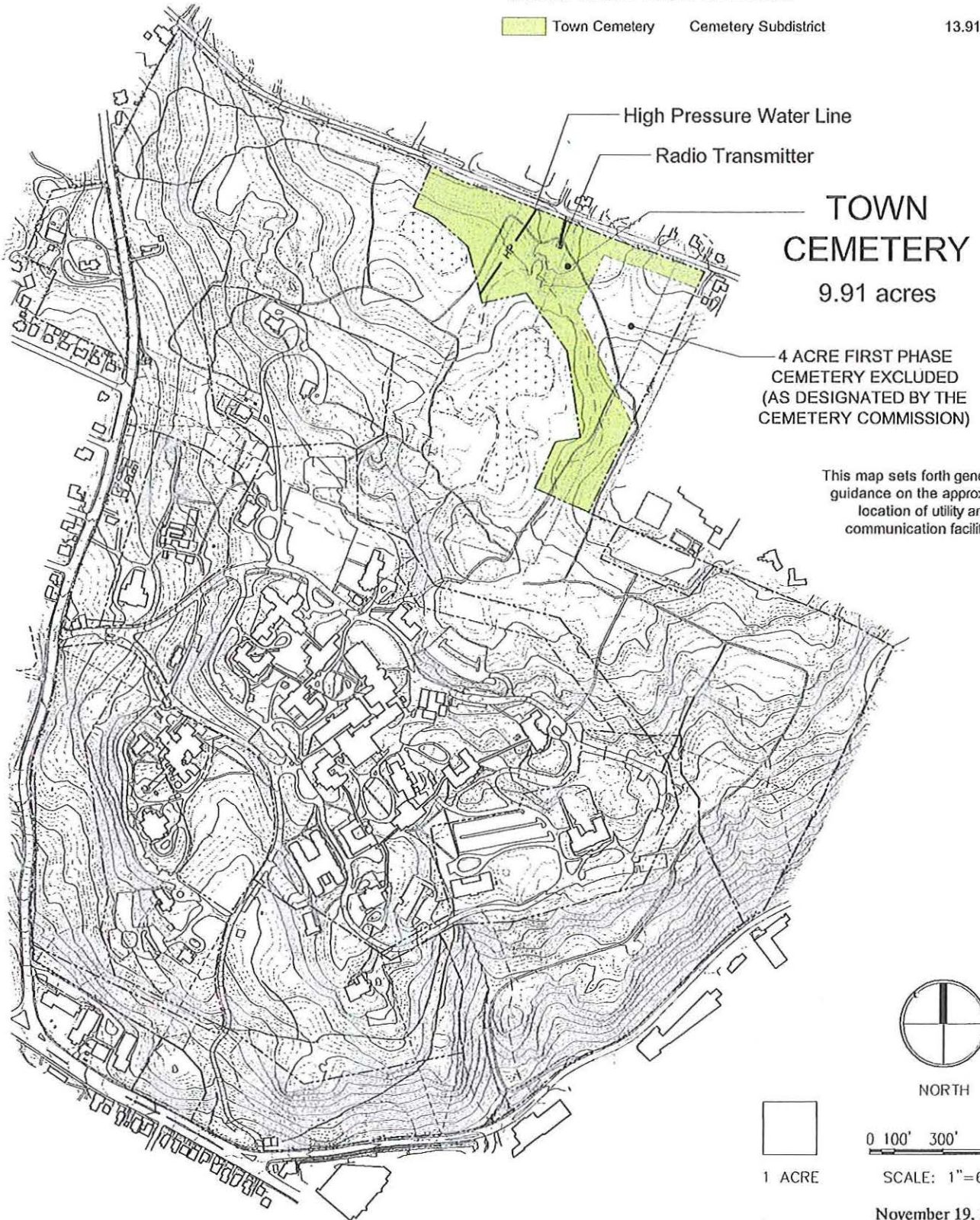
Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic



**Exhibit E / CR, B2**  
**Existing Utility & Communication Facilities in**  
**Conservation Restriction Area**

 Town Cemetery      Cemetery Subdistrict

13.91 acres



November 19, 1999

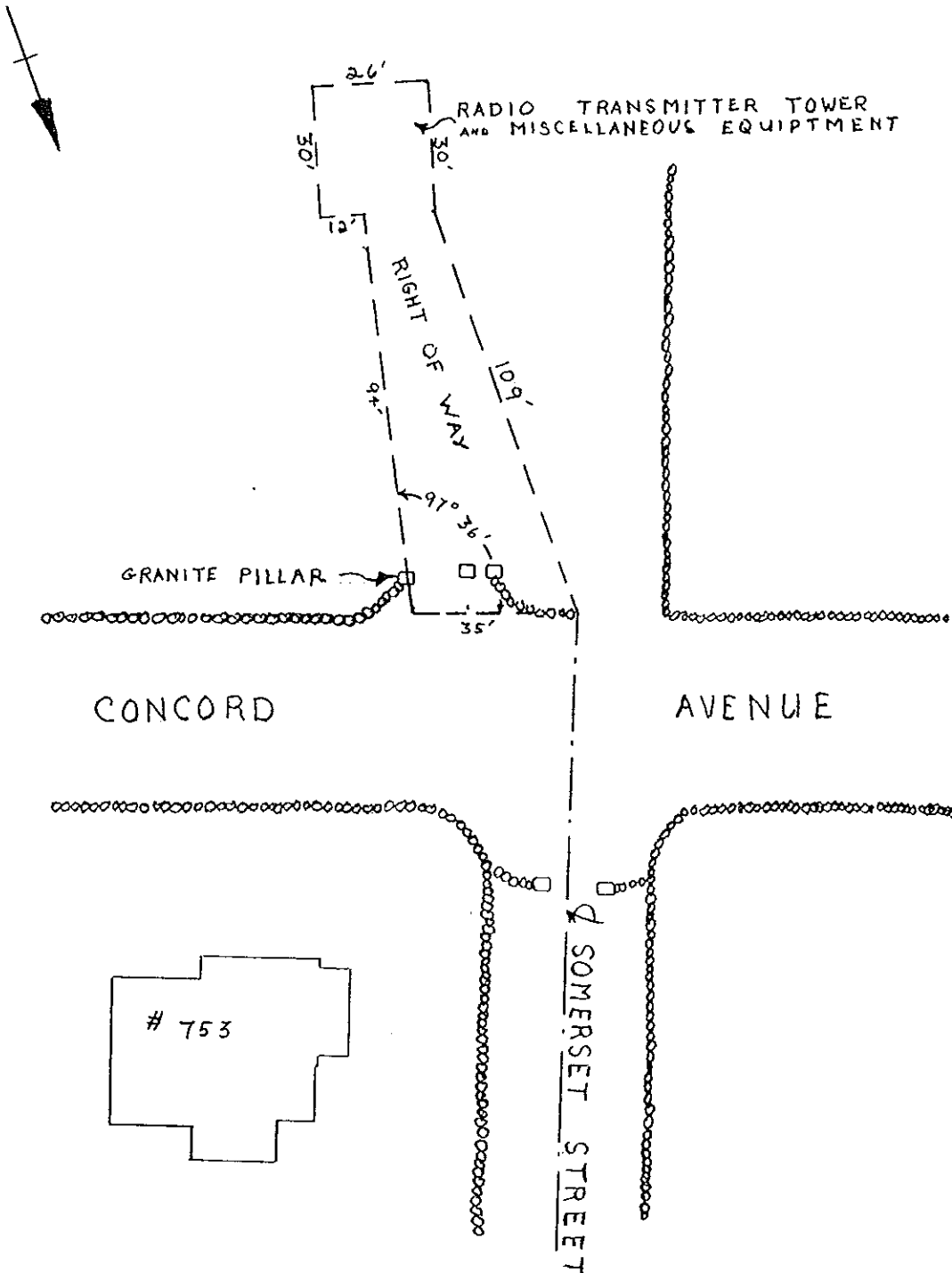
**The Keefe  
Company**

IN ASSOCIATION WITH:

**McLean District**  
**Zoning Map**  
 Belmont, Massachusetts

Pressley Associates, Inc.  
 Landscape Architects  
 Hemenway & Barnes, Attorneys  
 Frederic R. Harris, Architects  
 Walsh Brothers, Construction  
 Rizzo Associates, Traffic

EXHIBIT E



PLAN SHOWING

RADIO TRANSMITTER TOWER AND UTILITY LINE  
CONCORD AVENUE  
BELMONT, MASSACHUSETTS

Scale: 1-Inch = 40-Feet    October 25, 19  
OFFICE OF COMMUNITY DEVELOPMENT



Attachment C / Memorandum of Agreement  
Publicly Owned Land: Open Space

PUBLIC  
OPEN SPACE

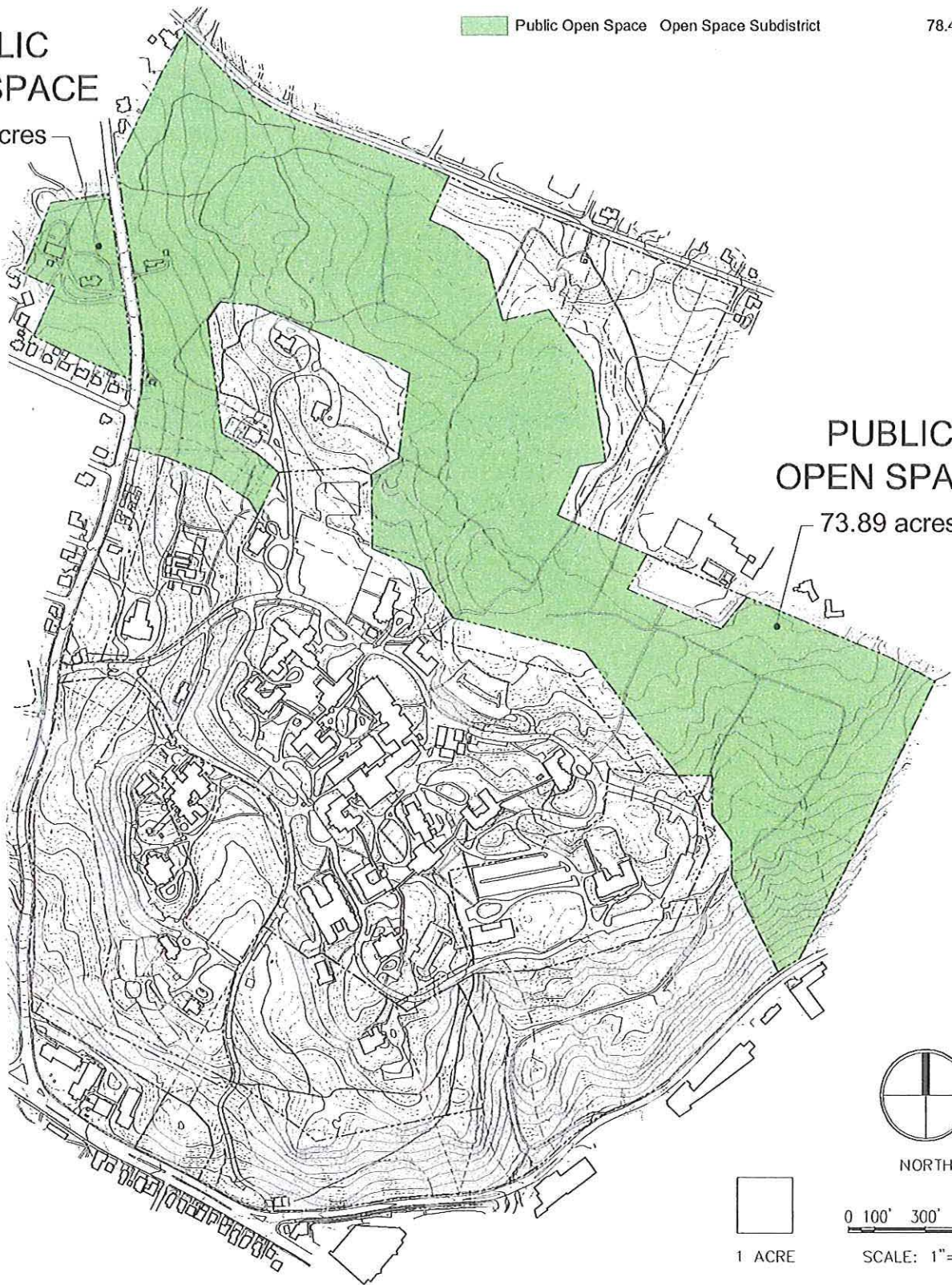
4.58 acres

Public Open Space Open Space Subdistrict

78.47 acres

PUBLIC  
OPEN SPACE

73.89 acres



NORTH



1 ACRE

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

The Keefe  
Company

IN ASSOCIATION WITH:

# McLean District Zoning Map

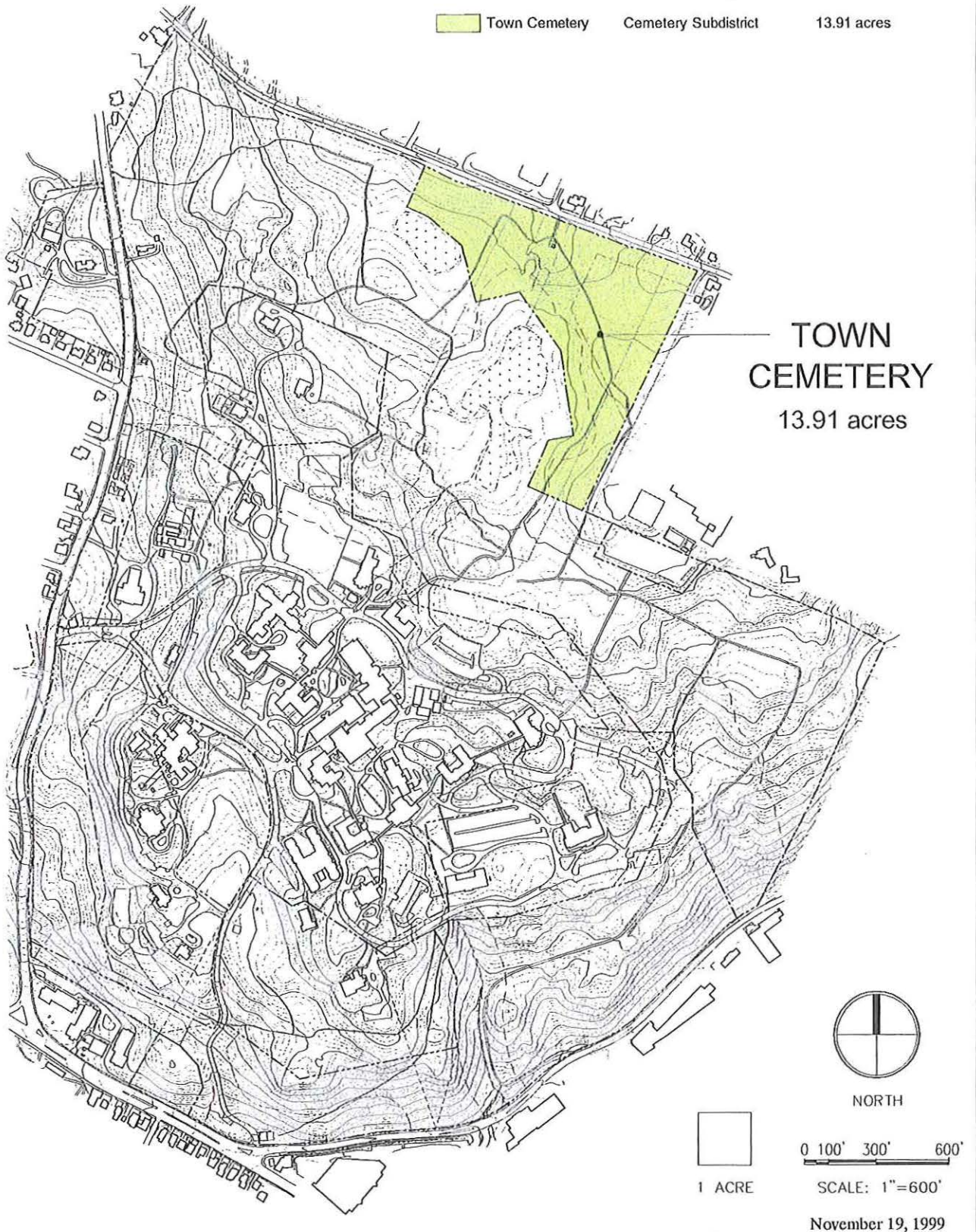
Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic



Attachment D / Memorandum of Agreement  
Publicly Owned Land: Cemetery

Town Cemetery Cemetery Subdistrict 13.91 acres



The Keefe  
Company

IN ASSOCIATION WITH:

McLean District  
Zoning Map  
Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic

## ATTACHMENT E

### LAND USE AND MANAGEMENT PLAN

This Land Use and Management Plan is entered into by and between the Town of Belmont, acting by and through its Board of Selectmen ("Belmont"), and The McLean Hospital Corporation ("McLean").

#### BACKGROUND

In connection with a re-use and re-development plan advanced for the approximately 238 acre McLean Hospital campus in Belmont, MA, approximately 119 acres of the campus have been reserved as publicly-accessible open space, approximately 92 acres of which have been conveyed to the Town of Belmont (including a portion intended to be used now or in the future for municipal cemetery purposes) and 27 acres of which have been retained by McLean (this acreage is shown on Exhibit A attached hereto and, excluding the portions thereof used for municipal cemetery purposes at any given time, is hereinafter referred to as the "McLean Open Space").

The McLean Open Space has been placed within a newly created open space or cemetery zoning district and is subject to the terms of a Conservation Restriction. The McLean Open Space will be used by members of the public for passive recreation and nature education. The Town of Belmont and McLean desire to establish a land use and management plan for the McLean Open Space.

#### SECTION ONE – MANAGEMENT COMMITTEE

A management committee will establish policies, guidance and oversight for the management of the McLean Open Space. Four members of the Management Committee shall be chosen by the Board of Selectmen of the Town of Belmont (one of such members shall be a member of the Conservation Commission, one shall be a member of the Cemetery Commission and one shall be a member of the Historic District Commission). Four members of the Management Committee shall be chosen by McLean. The final member(s) of the Management Committee shall be a representative of each of the holder(s) of the Conservation Restriction. Each member of the Management Committee shall serve a three year term, except that the terms of the initial members of the Management Committee shall be staggered so as to create no more than two Belmont vacancies and two McLean vacancies in any single year. The Management Committee shall meet as frequently and at such time and place as its members shall determine. The Management Committee shall select a chairman from among its members.

#### SECTION TWO – MANAGEMENT AGENT

The Management Committee shall designate as a management agent for the McLean Open Space a nonprofit organization experienced in the management of publicly-accessible open space. The management agent shall: (a) collect and maintain such information regarding the McLean Open Space as the Management Committee requires to make informed decisions hereunder; (b) provide recommendations to the Management Committee as described hereunder; and (c) implement the decisions made by the Management Committee with respect to the use and maintenance of the McLean Open Space. The Management Committee may require the termination of the management agent without cause at any time upon one year's prior notice or with cause at any time upon sixty (60) days' prior notice. The management agent may resign without cause at any time upon sixty (60) days' notice.

#### SECTION THREE – STATEMENT OF PURPOSES AND MANAGEMENT GOALS

Belmont and McLean agree that their common purposes are to ensure the protection of the important ecological, scenic and historic qualities of the McLean Open Space and to allow public access to and enjoyment of the McLean Open Space consistent with the preservation of such qualities. The management of the McLean Open Space will comply with the Conservation Restriction and the management plan described below. It is also agreed that the Management Committee should act hereunder only after having provided a meaningful opportunity for all interested parties to be heard,



including the Conservation Commission, the Cemetery Commission, the Historic District Commission and any boards and commissions of the Town of Belmont whose responsibilities include open space or passive recreational issues and including any concerned citizens of the Town of Belmont.

#### SECTION FOUR – MANAGEMENT PLAN

Belmont and McLean agree that the Management Committee shall be authorized to develop a management plan for the McLean Open Space, which shall be consistent with the outline set forth in the Conservation Restriction. The Management Committee shall seek the advice and recommendations of the management agent in developing such plan. Without limitation of the foregoing, the management agent shall prepare an initial draft of the plan and will present such draft to the Management Committee as part of the public process for determining the overall management of the McLean Open Space.

#### SECTION FIVE – LANDSCAPE RESTORATION AND CLEAN-UP PLAN

Belmont and McLean agree that the Management Committee shall be authorized to develop a landscape restoration and clean-up plan for the McLean Open Space, which shall be consistent with the Conservation Restriction and the management plan. The Management Committee shall seek the advice and recommendations of the management agent in developing such plan. Such plan shall take into account the preservation of historic landscapes, landscape features and archeological sites and shall require the rehabilitation and use of existing historic buildings (as opposed to new construction) wherever feasible.

#### SECTION SIX – PUBLIC ACCESS POLICIES

Belmont and McLean agree that the Management Committee shall be authorized to develop public access policies for the McLean Open Space, including appropriate rules and regulations regarding hours of operation, permitted open space uses and the like. The public access policies, rules and regulations shall be consistent with the Conservation Restriction and the management plan. The Management Committee shall seek the advice and recommendations of the management agent in developing such policies. In no event shall McLean Hospital be required by such policies to allow public access to an extent greater than previously agreed to by the terms of the Conservation Restriction. Public access shall be discouraged within a buffer zone from the boundary of the McLean Open Space with any adjacent residence in existence as of the date hereof, such buffer zone to be equal in depth to the current rear yard setback for the zoning district in which such residence lies.

#### SECTION SEVEN - UPDATES AND REVISIONS

Belmont and McLean agree that the Management Committee shall be authorized to update and revise the foregoing plans and policies from time to time as circumstances warrant, provided that such updates and revisions shall at all times comply with the Conservation Restriction.

#### SECTION EIGHT – FUNDING AND EXPENDITURES

Belmont and McLean agree that the Management Committee shall be authorized to develop initial capital and operating budgets for the McLean Open Space. (It is currently anticipated that the initial capital budget may exceed \$1.0 million and that the initial operating budget may exceed \$100,000). The Management Committee shall seek the advice and recommendations of the management agent in developing such budgets. Such budgets shall include proposals for sources of funds, including contributions by Belmont and McLean. In no event shall any landowner be required by such budgets to expend or contribute funds to an extent not previously agreed to.

The foregoing obligations shall run with the McLean Open Space. This Plan shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Plan shall not be amended in any material respect except by a further majority vote of Town Meeting.

Town of Belmont

By: \_\_\_\_\_  
Selectman

By: \_\_\_\_\_  
Selectman

By: \_\_\_\_\_  
Selectman

The McLean Hospital Corporation

By: \_\_\_\_\_

Its Duly Authorized \_\_\_\_\_

# Exhibit E / CR,B1

## Existing Utility & Communication Facilities in Conservation Restriction Area

Public Open Space	Open Space Subdistrict	105.70 acres
Conservation Buffer	McLean Institutional Subdistrict	2.83 acres
Soccer Field	Open Space Subdistrict	1.46 acres
<b>TOTAL: 109.99 acres</b>		

This map sets forth generalized guidance on the approximate location of utility and communication facilities.

**PUBLIC  
OPEN SPACE**

4.58 acres

**PUBLIC  
OPEN SPACE**

101.12 acres

**PRIVATE  
OPEN SPACE**

Soccer Field

1.46 acres

Communication  
& Electric Line  
Telephone  
Easement  
Storm drain

Tank

**100'  
BUFFER**

2.83 acres

Sewer Line



NORTH



1 ACRE

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

The Keefe  
Company

IN ASSOCIATION WITH:

## McLean District Zoning Map

Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic



# PUBLIC OPEN SPACE

4.58 acres

## Exhibit A to Attachment E (Land Management Agreement) Land Included in Land Management Agreement

Public Open Space	Open Space Subdistrict	105.70 acres
Town Cemetery (Exclusive of Phase I)	Cemetery Subdistrict	9.91 acres
		<b>TOTAL: 115.61 acres</b>

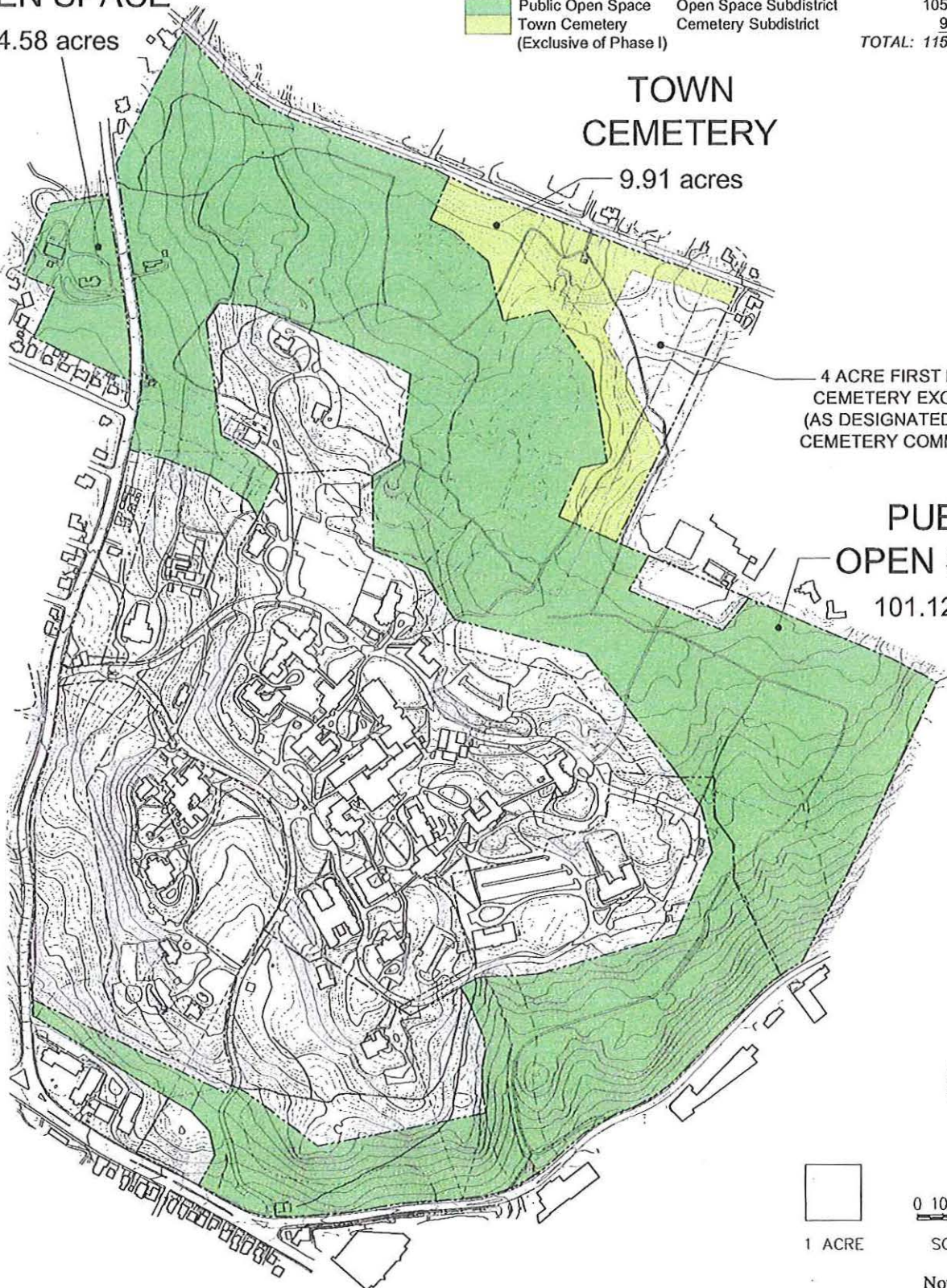
# TOWN CEMETERY

9.91 acres

4 ACRE FIRST PHASE  
CEMETERY EXCLUDED  
(AS DESIGNATED BY THE  
CEMETERY COMMISSION)

# PUBLIC OPEN SPACE

101.12 acres



NORTH



1 ACRE

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

The Keefe  
Company

IN ASSOCIATION WITH:



# McLean District Zoning Map

Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
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Walsh Brothers, Construction  
Rizzo Associates, Traffic



**Attachment F  
Public Affordable Housing**

	Zone Six	General Residential District	1.34 acres
	Vehicular Access Easement		3.99 acres

**ZONE 6**  
1.34 acres

**ACCESS AREA**  
3.99 acres



NORTH

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

**The Keefe  
Company**

IN ASSOCIATION WITH:



# McLean District Zoning Map

Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
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Walsh Brothers, Construction  
Rizzo Associates, Traffic

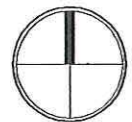


**Attachment F  
Public Affordable Housing**

	Zone Six	General Residential District	1.34 acres
	Vehicular Access Easement		3.99 acres

**ZONE 6**  
1.34 acres

**ACCESS AREA**  
3.99 acres



NORTH



1 ACRE

0 100' 300' 600'

SCALE: 1"=600'

November 19, 1999

**The Keefe  
Company**

IN ASSOCIATION WITH:

**McLean District  
Zoning Map**  
Belmont, Massachusetts

Pressley Associates, Inc.  
Landscape Architects  
Hemenway & Barnes, Attorneys  
Frederic R. Harris, Architects  
Walsh Brothers, Construction  
Rizzo Associates, Traffic

## ATTACHMENT G

### HISTORIC PRESERVATION AGREEMENT

This Historic Preservation Agreement dated as of November 22, 1999 is entered into by and between the Town of Belmont, acting by and through its Board of Selectmen ("Belmont"), and The McLean Hospital Corporation ("McLean").

WHEREAS, McLean is seeking the rezoning of its approximately 238-acre site (the "Site") in the Town of Belmont;

WHEREAS, Belmont is supportive of the proposed rezoning but wants to insure that appropriate historic preservation measures are followed to minimize any adverse effects to historic resources that may result from any future development of the site;

WHEREAS, it is universally recognized that McLean has been an outstanding steward of its historic campus for over 100 years;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Belmont and McLean hereby agree as follows:

1. McLean will require that the following buildings located in the Residential Subdistricts, the Senior Living Subdistrict, and the Open Space Subdistricts be reused and rehabilitated by the purchaser/owner of such subdistricts: Upham Memorial Building, Mill Street Lodge, Pleasant Street Lodge, Garage (Stable) and Samuel Eliot Memorial Chapel. In addition, McLean will require that one of Hope, South and West Cottages be reused and rehabilitated (such cottage(s) may be relocated within the Site). Further, McLean agrees to require such purchaser/owner to take reasonable steps to protect such buildings from serious deterioration as a result of weather or vandalism prior to reuse and rehabilitation. Finally, McLean agrees to require that such buildings be reused or rehabilitated consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation. The Town agrees to reuse and rehabilitate the Brick Barn at Rock Meadow in the same manner.
2. McLean will encourage developers to pursue the historic preservation bonuses available for the reuse and rehabilitation of the Office Building (Superintendent's House), South Cottage, and Hope Cottage, and to take advantage of Federal preservation tax incentives that encourage rehabilitation of income-producing buildings that are listed in the National Historic Register of Historic Places. Any of these buildings that developers determine to reuse or rehabilitate will be protected from deterioration and rehabilitated in the same manner as in #1 above.
3. McLean agrees that it will cooperate with, and consent to, the Belmont Historic District Commission's (the "Commission") efforts to nominate the McLean campus to the National Register of Historic Places and will work with the Commission to determine which buildings, landscapes and landscape elements contribute to the historic character of the campus and are therefore worthy of preservation ("Historic Buildings," "Historic Landscapes" and "Historic Landscape Elements") and which are non-contributory; provided, however, that in cooperating with the Commission, McLean shall not be required or expected to incur any of the costs of the nomination process. Furthermore, in recognition of McLean's commitment to cooperate with the Commission in placing the campus on the National Register and to consult the Commission in advance of major external changes to the nominated properties, the Commission does not intend to seek or support designation of the Site, or any portion thereof, as an historic district or local landmark. However, should unforeseen circumstances seriously threaten the historic resources this Agreement is intended to protect, the Commission retains the right to exercise its authority under state law and local by-laws to preserve the endangered buildings and landscapes.

4. McLean will consult with, and will require any of its developers to consult with, the Commission prior to undertaking substantial external alterations, demolition, and/or new construction affecting any Historic Building, Historic Landscape or Historic Landscape Element for the purpose of avoiding, minimizing, or mitigating adverse effects to these historic resources. In instances where such alteration, demolition, or new construction is required by law or regulation, McLean or its developers will work with the Commission to find a design solution that is compatible with the Historic Buildings and that mitigates the effect that any demolition or new construction may have upon other historic resources as mentioned above. McLean shall not consult with the Commission when alteration, demolition, or construction must be done in an emergency situation, but such an emergency is to be determined by McLean on a reasonable basis that does not undermine the intent of this Agreement. The Commission's review of all plans presented to it by McLean or its developers will be based on the principles and guidelines embodied in the United States Secretary of the Interior's Standards for Rehabilitation and Standards for the Treatment of Historic Places.
5. Belmont agrees to preserve the Historic Landscapes and Historic Landscape Elements within the Public Open Space Subdistrict and the Cemetery Subdistrict wherever possible.
6. McLean agrees to include commitment to historic preservation and experience on historic rehabilitation projects among the developer selection criteria.
7. McLean agrees that it will develop in consultation with the Commission design guidelines respecting the historic character of the campus, including the Historic Buildings, Historic Landscapes and Historic Landscape Elements that will be consistent with the United States Secretary of the Interior's Standards for Rehabilitation and Standards for the Treatment of Historic Properties. McLean will follow, and will require its developers to follow, these guidelines in all future construction projects that would involve or impact the Historic Buildings, Historic Landscapes and Historic Landscape Elements.
8. McLean agrees that it will require photographic and written records be prepared of Historic Buildings, Historic Landscapes and Historic Landscape Elements throughout the campus prior to substantial exterior alteration or demolition. The documentation will follow accepted state and/or national standards, and two original copies of each record will be provided to the Town.
9. McLean agrees to provide access to any inventory and mapping materials or documents currently in its possession in order to assist the Town in preparing an inventory and map of Historic Buildings, Historic Landscapes and Historic Landscape Elements such as stone walls, vistas, courtyards, and road and path systems, and areas of archaeological sensitivity. This record will assist the Town, McLean, and its developers in their mutual effort to avoid, minimize or mitigate adverse effects to historic and archaeological resources of the Site.
10. Belmont designates the Belmont Historic District Commission as the Town body responsible for seeing that the provisions of this Agreement are carried out in a spirit of good will and mutual cooperation.

The foregoing obligations shall run with the land now owned by McLean Hospital Corporation in Belmont, Massachusetts. McLean shall require any successor owner of land governed hereby to acknowledge in writing its obligations hereunder and to provide the same to Belmont prior to or upon transfer. A notice hereof shall, at the request of Belmont, be executed by McLean and recorded with the Registry of Deeds. This Agreement shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Agreement shall not be amended in any material respect except by a further majority vote of Town Meeting.



Town of Belmont

By:   
Selectman

By:   
Selectman

By:   
Selectman

The McLean Hospital Corporation

By: 

Its Duly Authorized President

## ATTACHMENT H

### TAX AGREEMENT

This Tax Agreement dated as of November 22, 1999 is entered into by and between the Town of Belmont, acting by and through its Board of Selectmen ("Belmont" or "the Town"), and The McLean Hospital Corporation ("McLean").

WHEREAS, McLean is seeking the rezoning of its approximately two hundred and thirty-eight acre site (the "Site") in the Town of Belmont;

WHEREAS, Belmont is supportive of the proposed rezoning but wants to ensure that it protects its fiscal base;

WHEREAS, under the proposed rezoning McLean would occupy an approximately forty-nine acre subdistrict in the Site ("McLean Subdistrict") which subdistrict would be zoned for principal use as a psychiatric hospital;

WHEREAS, McLean for many years has paid taxes to Belmont based on the assessed value of the land, but not the buildings, at the Site;

WHEREAS, under the proposed rezoning approximately twenty-six acres will be zoned for attached single family dwellings ("Residential Subdistrict"), approximately thirteen acres will be zoned for senior living ("Senior Subdistrict") and approximately twelve acres will be zoned for research and development ("R&D Subdistrict");

WHEREAS, McLean intends to sell to developers the land and development rights in the Residential Subdistrict, the Senior Subdistrict and the R&D Subdistrict;

WHEREAS, once such sales have taken place, the Town will receive tax payments from such developers;

WHEREAS, the Town needs to protect its fiscal base by ensuring that tax payments from the Site are in the amount paid by McLean in the current fiscal year;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Town and McLean hereby agree as follows:

1. As soon as reasonably possible, the Town will submit a home rule petition to the state legislature proposing legislation in the form attached hereto as Exhibit A and will diligently seek to have said petition approved by the legislature.

2. The Town will continue to receive total annual revenue from McLean, whether as tax payments or as payments in lieu of taxes (hereinafter "tax payments"), in an amount determined by the assessed value of the land at the Site for the fiscal year ending June 30, 1999 and by the then applicable tax rate for the fiscal year (the "McLean Payment"). In addition, following the sale of any land within the Residential, Senior or R&D Subdistricts, or the development of land pursuant to the rezoning within any such subdistrict while owned by McLean, the owners of such subdistrict will make tax payments to Belmont based on the then assessed value of the land and buildings within the subdistricts (the "Development Parcel Payments"). To the extent the total of the Development Parcel Payments for any fiscal year is equal to or greater than the McLean Payment, McLean shall be exempt from making any tax payment to Belmont for such year (other than its Development Parcel Payments, if any). To the extent the total of the Development Parcel Payments is less than the McLean Payment, McLean shall be responsible for making a tax payment (other than its Development Parcel Payments, if any) equal to the amount by which the total of the Development Parcel Payments is less than the McLean Payment.



3. Any owner, regardless of the manner, method or form by which such owner received or acquired its ownership interest, of the Residential Subdistrict, the Senior Subdistrict or the R&D Subdistrict, shall be obligated to make tax payments to the Town based on the full and fair cash valuation of its real property (land and buildings). If the real property of such owner is exempt from taxation under the General Laws, such owner shall make payments in lieu of taxation in an amount equal to the amount that would be due if such owner's real property were not so exempt, or such other amount acceptable to the Town. If, and to the extent that, any such owner makes payments in lieu of taxation to Belmont, such owner shall have the right to seek an abatement or reduction in such payments for any reason as set forth in section fifty-nine of chapter fifty-nine of the General Laws (other than by claim of exemption); provided, however, that if such abatement or reduction is denied by the Town, such owner shall have the right to submit such claim to arbitration before the American Arbitration Association and the Town and such owner agree to be bound by the determination of the arbitrator.

4. In any year prior to the enactment and effective date of the home rule petition set forth in Section 1 above, if McLean makes any tax payments to the Town in excess of the tax payments required hereby, the Town shall abate such tax payments.

The foregoing obligations shall run with the land now owned by McLean Hospital Corporation in Belmont, Massachusetts. McLean shall require any successor owner of land governed hereby to acknowledge in writing its obligations hereunder and to provide the same to Belmont prior to or upon transfer. A notice hereof shall, at the request of Belmont, be executed by McLean and recorded with the Registry of Deeds. This Agreement shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Agreement shall not be amended in any material respect except by a further majority vote of Town Meeting.

Town of Belmont

By:   
Selectman

By:   
Selectman

By:   
Selectman

The McLean Hospital Corporation

By: 

Its Duly Authorized President

## EXHIBIT A

### An Act Relative to the Taxation of Certain Property in the Town of Belmont

- Section 1. Notwithstanding the provisions of Clause Third (c) of section five of chapter fifty-nine of the General Laws or any other general or special law to the contrary, the personal and real property of a charitable organization, which real property was acquired prior to nineteen hundred and eleven, located in the Town of Belmont and providing treatment of mental diseases or mental disorders shall be exempt from taxation if such property qualifies as exempt pursuant to the provisions of the first paragraph of said Clause Third.
- Section 2. Notwithstanding any general or special law to the contrary, taxation of the real property described within a certain agreement entered into between the Town of Belmont and McLean Hospital Corporation dated November 22, 1999 shall be governed by said agreement.
- Section 3. This act shall take effect upon passage.

## Chapter 306 of the Acts of 2000

### AN ACT RELATIVE TO THE TAXATION OF CERTAIN PROPERTY IN THE TOWN OF BELMONT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Notwithstanding paragraph (c) of clause Third of section 5 of chapter 59 of the General Laws or any other general or special law to the contrary, the personal and real property of a charitable organization, which property was acquired before 1911, located in the town of Belmont and providing treatment of mental diseases or mental disorders, shall be exempt from taxation if such property qualifies as exempt pursuant to the first paragraph of said clause Third.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the taxation of the real property described within a certain agreement entered into between the town of Belmont and the McLean Hospital Corporation dated November 22, 1999 shall be governed by said agreement.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 27, 2000.

Return to:

List of Laws passed in 2000 Session

General Court home page, or

Commonwealth of Massachusetts home page.

## ATTACHMENT I

### TRAFFIC MONITORING AND MITIGATION AGREEMENT

This Traffic Monitoring and Mitigation Agreement ("Agreement") is entered into as of November 22, 1999 by and between the Town of Belmont, acting by and through its Board of Selectmen ("Belmont"), and The McLean Hospital Corporation ("McLean"). This Agreement establishes the maximum level of permitted traffic to be generated by uses within the Research & Development, Senior Living and McLean Institutional zoning subdistricts and to set forth the recourse actions to be taken by Belmont in the event that the actual traffic levels exceed such permitted levels. This Agreement also details the traffic mitigation measures for which McLean agrees to provide the funding.

Belmont acknowledges that McLean intends that one or more unrelated parties will actually develop the proposed uses within the Research & Development and Senior Living Subdistricts and that McLean will likely sell the land within such subdistricts to such parties in connection with the development. Performance of the obligations set forth in Section I with respect to any subdistrict shall be the responsibility of (and at the expense of) the owner of the land within such subdistrict (the joint and several liability of the owners of the land, if more than one party owns the land within a given subdistrict). Performance of the obligations set forth in Section II shall be the responsibility (and at the expense of) McLean, except that no building within any subdistrict shall be occupied if McLean has failed to perform any obligation under Section II which was required by the provisions of Section II to have been performed by such time.

#### I. MONITORING PROGRAM

A traffic monitoring program is to be conducted following completion and substantial occupancy of any building within any of the Research & Development; Senior Living; and McLean Institutional Subdistricts. The traffic monitoring program and recourse actions described herein will ensure that these components of the project generate:

1. peak hour traffic flows at a rate that is less than or equal to a rate of 692 peak hour trips during morning peak hours (206 for the Research & Development Subdistrict ; 36 for the Senior Living Subdistrict and 450 for the McLean Institutional Subdistrict) and a rate of 742 peak hour trips during evening peak hours (180 for the Research & Development Subdistrict; 92 for the Senior Living Subdistrict and 470 for the McLean Institutional Subdistrict); and
2. daily traffic flows at a rate that is less than or equal to a rate of 7,692 daily trips (1,784 for the Research & Development Subdistrict; 1,148 for the Senior Living Subdistrict and 4,760 for the McLean Institutional Subdistrict).

Notwithstanding any provision hereof to the contrary, this Agreement shall not be applicable to the McLean Institutional Subdistrict so long as the buildings and improvements within such subdistrict continue to be used exclusively for psychiatric hospital purposes and uses functionally dependent upon and necessary to psychiatric hospital use, except for either (i) up to 75,000 square feet of gross floor area of other uses permitted by zoning (other than medical offices) or (ii) up to 25,000 square feet of gross floor area of medical offices as permitted by zoning. McLean represents that as of the date hereof the entirety of the McLean Institutional Subdistrict is used for psychiatric hospital purposes and uses functionally dependent upon and necessary to psychiatric hospital use, Belmont acknowledging that such representation includes the Arlington School and the existing day care facility (but no expansion thereof) within such definition. McLean agrees to provide Belmont with an annual certification, on a building-by-building basis, of the number of square feet used for other purposes. McLean shall notify Belmont promptly upon any change in use causing the foregoing thresholds to be exceeded. Belmont shall have the right to obtain such further reasonable evidence from McLean as it shall require to confirm the accuracy of such certifications.



#### A. STUDY DATA

Data collected for the traffic monitoring program will include traffic volumes entering and exiting the Research & Development Subdistrict; Senior Living Subdistrict and McLean Institutional Subdistrict. Monitoring will involve continuous Automatic Traffic Recorder (ATR) counts on a daily basis. (Data will be collected in 15 minute increments.) Data collected shall be retained for at least one year from the date of collection.

A "weekly sampling report" shall mean a data collection report providing monitoring results over five consecutive, non-holiday weekdays, summarized by one hour intervals and by daily totals. The morning and evening peak hour volumes for each weekday will be determined and average morning and evening peak hour volumes will be determined for the week. In addition, the daily trip totals for each weekday will be determined and average daily trip totals will be determined for the week.

#### B. PROGRAM

1. Within six months after the issuance of a building permit for a structure within a subdistrict governed hereby, the owner of the land within the subdistrict (the "owner") shall file with the Town Engineer a detailed Traffic Demand Management (TDM) plan, describing the measures to be taken by the owner to avoid traffic generation in excess of the levels permitted hereby and describing the further measures to be taken by the owner in the event traffic generation exceeds permitted levels. The owner shall consult with the Town Engineer prior to filing the TDM plan and shall take into account any comments of the Town Engineer with respect thereto. The owner shall file an updated TDM plan annually thereafter.

2. Within thirty days of such structure reaching a 90% occupancy level, or one year after a certificate of occupancy has been issued, whichever is earlier, the owner shall notify the Town Engineer. The Town Engineer shall thereafter have the right (in the McLean Institutional Subdistrict, whenever this Agreement becomes applicable thereto) to require submission of a weekly sampling report for such subdistrict for any week designated by the Town Engineer. A weekly sampling report shall thereupon be submitted to the Town Engineer within seven days of such request (or seven days after the end of the week to be reported upon, if later). Notwithstanding the foregoing, Belmont agrees to observe the guideline that weekly sampling reports should generally not be required more than bi-monthly during development of a subdistrict and more than annually after one year following substantial completion of the build-out and occupancy within the subdistrict, reserving Belmont's right to require more frequent weekly sampling reports upon changes in use, changes in ownership, the occurrence of violations or other reasonable basis for more frequent reporting.

#### C. RECOURSE ACTIONS

1. There shall be deemed to be a violation of this Agreement whenever a weekly sampling report reveals that:

- (a) either the morning or evening average peak hour trip generation rate exceeds the permitted rate; or
- (b) the average daily trip total exceeds the permitted rate.

2. If a weekly sampling report contains a violation, then the owner shall: (a) prepare and submit to the Town Engineer an updated TDM plan (if one has not been filed within the previous three months); (b) use diligent efforts to implement such plan as soon as possible and (c) provide follow-up weekly sampling reports to the Town Engineer until no further violations exist. If a weekly sampling report (including a follow-up report) contains a violation, then the owner shall pay the Town of Belmont a traffic mitigation payment of \$10,000 (\$2,500 for a follow-up report) for each such weekly sampling report, which shall be applied by the Town against its costs in monitoring and enforcing this Agreement and/or in taking further action to mitigate the effect of traffic generated by the Property upon Town streets.

3. If follow-up weekly sampling reports continue to show violations for two weeks, then Belmont may restrict the number of parking spaces which can be used during the morning and evening peak hours to the extent that the Town Engineer determines is needed to correct the violations. If follow-up weekly sampling reports still continue to show violations thereafter, the Town Engineer may further increase such parking restrictions.

4. If for two consecutive months, follow-up weekly sampling reports evidence that average trip generation is below the permitted rates, the Town will return full control of parking to the owner. The owner shall continue to be obligated to file follow-up weekly sampling reports for one month after full control of parking has been returned.

## II. MITIGATION PROGRAM

McLean agrees to provide the funding for the mitigation measures listed below. The measures proposed will mitigate project related traffic impacts at intersections where:

1. the project may have a material impact on traffic operations.
2. state funding is not readily available to fund the improvements, or where pursuing or securing state funding will jeopardize, or compete with, the prospects of other eligible projects where funding is being sought. (State funding has been approved for the reconstruction of Pleasant Street, consequently, it is assumed suggested improvements for Pleasant Street can be incorporated into the ongoing Pleasant Street project. McLean shall fund increased design and construction costs associated with changes to the Pleasant Street design, if they are not able to be incorporated in the normal design process).
3. there is sufficient public support to ensure timely implementation of proposed improvements.

Based on these criteria, McLean agrees to fund the design and construction of improvements at two intersections in the project vicinity at an estimated cost of \$690,000. McLean agrees it will collaborate with Belmont in developing the actual mitigation to be implemented. In addition, McLean will provide an additional \$310,000 to Belmont to be spent at Belmont's discretion for the design and construction of improvements at other intersections in the site vicinity not listed below.

Location	Proposed Action	Schedule	Estimated Construction Cost
A. Pleasant Street At McLean Driveway	Construct Drive Add Left Turn Lane Signalize	Prior to Occupancy of R&D Building or Senior Housing	\$375,000
B. Pleasant Street at Trapelo Road	Extend Right Turn Lane Extend R.O.W. Install Signal Interconnect Signal	Prior to Occupancy of R&D Building	\$315,000
C. At discretion of Town	Design and/or construct offsite intersection improvements		\$310,000
		TOTAL	\$1,000,000

The above-identified funding will be provided based on the following conditions:

A. Upon certification by Belmont that Belmont has need for funding with respect to an improvement (identifying the dollar amount required therefor), McLean shall place such funds in escrow.

B. Belmont and McLean shall maintain such funds in an interest bearing account with the full amount of interest earned payable to McLean.

C. Belmont shall cooperate with McLean in seeking PWED and/or CDAG grants available by application filed prior to June 30, 2000 in order to fund any or all of the above improvements at locations A and B.

D. If such grants are obtained to fund such improvements McLean's obligation to fund such improvements shall be reduced by the amount of such state grants and, upon actual receipt by Belmont of such state grants, McLean shall be entitled to withdraw such amount from the escrowed funds; provided, however, that if such grants exceed \$500,000 in the aggregate, then McLean's commitment to fund other improvements shall increase dollar-for-dollar up to a limit of \$190,000 (raising McLean's total commitment to other improvements to \$500,000).

E. Belmont shall be authorized to draw funds from the escrow account in order to pay for the above-identified mitigation projects. Projects under Heading C must pertain to one or more of the following intersections: Mill Street at McLean Driveway; Mill Street at Trapelo Road; Trapelo Road at Waverley Oaks Road; Trapelo Road at Star Market Driveway; Concord Avenue at Winter Street; Concord Avenue at Mill Street; Pleasant Street at Clifton/Leonard Streets; Pleasant Street at Brighton Street; Concord Avenue at Blanchard Road; Concord Avenue at Pleasant Street; Concord Avenue at Common Street; Concord Avenue at Channing/Leonard Streets. Such projects can include transit, shuttle, pedestrian and/or bicycle enhancements associated with such intersections. Draws under Headings A and B shall not exceed \$690,000 (less any grant funds as described above) and McLean shall be responsible for any additional sums needed to complete such projects.

F. Two years from the date of the certificate of occupancy representing 85% or more completion (on a square footage basis) of the permitted development within the Research & Development and Senior Living subdistricts, McLean shall be entitled to withdraw any remaining funds from the escrow account unless and for so long as Belmont is actively pursuing any of the above-identified mitigation projects and such remaining funds are necessary to pay for such project.

### III. LEGAL EFFECT

The foregoing obligations shall run with the land now owned by McLean Hospital Corporation in Belmont, Massachusetts. McLean shall require any successor owner of land governed hereby to acknowledge in writing its obligations hereunder and to provide the same to Belmont prior to or upon transfer. A notice hereof shall, at the request of Belmont, be executed by McLean and recorded with the Registry of Deeds. This Agreement shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Agreement shall not be amended in any material respect except by a further majority vote of Town Meeting.

Town of Belmont

By:   
Selectman

By:   
Selectman

By:   
Selectman

The McLean Hospital Corporation

By: 

Its Duly Authorized

President

ATTACHMENT J

SOCCER FIELD AGREEMENT

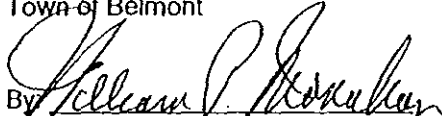
This Agreement entered into by and between the Town of Belmont, acting by and through its Board of Selectmen ("Town" or "Belmont") and McLean Hospital Corporation ("McLean").

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. If McLean sells fee title to the existing soccer field on its property (the "Field") to the Belmont Day School, McLean shall condition such sale on the requirement that the Belmont Day School establish an arrangement with the Town which provides for some Town use of the Field when the Field is not being used by Belmont Day School. Such use by the Town may include use by non-profit youth soccer organizations which operate cooperatively with the Town. Such use by the Town shall include reasonable arrangements for parking at the Belmont Day School; and

2. The foregoing obligation shall run with the Field. This Agreement shall not take effect until ratified by a majority vote of Town Meeting of the Town of Belmont. Upon such ratifying vote, this Agreement shall not be amended in any material respect except by a further majority vote of Town Meeting.

Town of Belmont

By:   
Selectman

By:   
Selectman

By:   
Selectman

The McLean Hospital Corporation

By: 

Its Duly Authorized President



## EASEMENT AGREEMENT

This EASEMENT AGREEMENT made as of this 5<sup>TH</sup> day of February, 2001, by Belmont Day School, Inc., of 55 Day School Lane, Belmont, Middlesex County, Commonwealth of Massachusetts.

WHEREAS, McLean Hospital Corporation ("McLean") is the present owner in fee simple of that certain parcel of real property located in Belmont, Middlesex County, Commonwealth of Massachusetts, commonly known as "Claflin Field", more particularly described in Exhibit A attached hereto and made a part hereof, (the "Field"); and

WHEREAS, McLean has entered into that certain "Soccer Field Agreement" with the Inhabitants of the Town of Belmont, Massachusetts, a municipal corporation situated in Middlesex County, Commonwealth of Massachusetts, acting through its Board of Selectmen, (the "Town"); and

WHEREAS, the Soccer Field Agreement provides in part that if McLean sells fee title to the Field to the Belmont Day School, Inc. ("Belmont Day"), McLean shall condition such sale on the requirements that Belmont Day grants to the Town the right to use the Field, that Belmont Day provide reasonable arrangements for parking accommodating such use by the Town, and that such right of the Town shall run with the land; and

WHEREAS, Belmont Day desires to purchase and McLean desires to sell to Belmont Day said land commonly known as Claflin Field,

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Belmont Day does hereby grant to the Town, with **Quitclaim Covenants**, the perpetual right and easement in, on, upon, through, over and under the Field on foot and (solely for the purposes of maintenance as hereinafter described) in motor vehicles upon the following terms, agreements and conditions, (the "Easement"):

1. Permitted Uses. The Town shall have the right to use the Field for "Youth Soccer Games". For the purposes of this Easement, Youth Soccer Games shall mean practices, games, and other soccer activities in which the participants are 10 years of age or younger. By separate written agreement, Belmont Day, at its discretion, may permit the Town to use the Field for other uses. At all times, the Field and all other areas of Belmont Day impacted by the Town's use thereof shall be used in a manner that shall not be detrimental to any of Belmont Day's property or programs. There shall be no compensation paid to Belmont Day in exchange for the Town's use of the Field, parking areas and related property.

Use of the field will always be in keeping with the mission of Belmont Day, which is to provide a developmentally appropriate program for children and an atmosphere in which they feel secure, experience the joys of learning, and know their accomplishments are valued.

2. Schedule of Use.

a) The Town: Subject to the exceptions stated in Paragraph 2b below, the Town shall have the right to use the Field on each Saturday during the Town's Fall and Spring soccer seasons (from the first weekend in September to the middle of November and from the first weekend in April through to the middle of June, respectively, each year) between the hours of 9:00 a.m. and 4:00 p.m. The Town shall not schedule more than one (1) game to occur on the Field at any one time.

b) Belmont Day: On or before June 1 of each year, Belmont Day shall provide the Town with a schedule of the specific dates, and time durations for each Saturday during the Town's soccer seasons on which Belmont Day requires use of the Field or Belmont Day parking areas for its own purposes, (the "BDS Schedule"). However, without the prior written consent of the Town, Belmont Day's use of the Field on Saturdays during the Town's soccer seasons shall not exceed two (2) Saturdays per season. Without the prior consent of Belmont Day, the Town may not use the Field during the times specified on the BDS Schedule.

c) Inclement Weather: Both the Town and Belmont Day agree not to use the Field during or following periods of inclement weather where such use is likely to damage the Field. The Youth Soccer Field Evaluator (or if there shall be none, a person with similar responsibilities designated by the Town) will check the Field on each Saturday in the season and will post the decision on the web site for Youth Soccer, or if there shall be no web-site, shall otherwise notify the participants. Belmont Day, in its reasonable discretion, may also determine that weather-related Field conditions are likely to result in damage to the Field. In the event such a determination is made, Belmont Day shall so notify the Town by contacting the person(s) designated for such purpose by the Town before 7:30 a.m. the morning of the game. Authority to cancel a game in progress rests solely with the referee of the game.

d) There will be a Claflin Field Coordination Committee composed of a representative appointed by the Recreation Commission of the Town, a member of the Youth Soccer organization, the Manager of Buildings and Facilities of the Town, the Head of Belmont Day School, the President of the Belmont Day School Board of Trustees, and a member of the Belmont Day School Land Committee. The Claflin Field Coordination Committee will meet as necessary but no less than two times per year to assess the schedule and to discuss the ongoing relationship between Youth Soccer and the School and to make and implement any decisions necessary to further the utilization of this Easement. In the event of a dispute, the American Arbitration Association will be called to adjudicate. The Town and the School agree to abide by the decision of the Association.

3. Parking. The Easement to use the Field shall also include the right of the Town to use

Belmont Day parking areas serving the Field. Belmont Day shall designate a minimum of thirty (30) parking spaces on asphalt at Belmont Day to accommodate persons associated with all Town Youth Soccer Games at the Field. The Town shall be responsible for parking enforcement within said designated areas. In the event that parking areas designated by Belmont Day are insufficient to accommodate all vehicles associated with the Town Youth Soccer Games, the Town shall be responsible for providing additional parking areas; however, in no event shall there be parking on Day School Lane. The Town shall also use reasonable efforts to mitigate the adverse effects of parking and traffic in the neighborhood near the Field. Notwithstanding the above, Belmont Day shall not be limited in its own use of its property for parking at times specified on the BDS Schedule.

4. Maintenance of the Field.

a) Belmont Day:

- i. Belmont Day shall be responsible for maintaining the Field and its parking areas and shall maintain the Field as a well-groomed, well-planted and green playing field, providing watering, aeration, planting and mowing of the Field as shall be reasonably necessary. The Town and Belmont Day shall equitably share the reasonable costs of the maintenance of the Field.
- ii. Prior to or during each season in which the Town shall use the Field, Belmont Day shall be responsible for the fertilization of the Field, using chemicals safe for children. The Town shall reimburse Belmont Day for the reasonable costs of such fertilization.

b) The Town:

- i. During the course of each season in which the Town shall use the Field, the Town shall be responsible for laying out the requisite boundary lines for the Field as shall be reasonably necessary. The Town, at its sole discretion, shall provide either the labor and materials required for such lining, or the reasonable costs associated therewith.
- ii. During the course of each season in which the Town shall use the Field, the Town shall be responsible for erecting and removing soccer goals used on the Field as shall be reasonably necessary.
- iii. On days which the Town uses the Field, the Town shall be responsible for the removal of all trash and debris from the Field and parking areas used by the Town.

5. Liability. The Town hereby irrevocably releases Belmont Day School, Inc., and its members, officers, directors, trustees, employees and agents, from liability for personal injury or

property damage arising out of use of the Field pursuant to this Agreement. The parties agree that this Agreement, including particularly but without limitation the sharing or reimbursement of costs of maintenance under paragraph 4 hereof, is not intended to and does not impose on the Town any charge or fee for the use of the field, it being the express intention of the parties that use that the use of the Field by the Town and the public shall come within the provisions of M.G.L. Chapter 21, Section 17C. If any such cost-sharing or reimbursement nevertheless shall be determined by final court action to constitute a fee or charge within the meaning of such statute but for the following clause, then such fee or charge is hereby waived and any amounts previously paid on account hereof shall promptly be returned to the Town. Notwithstanding the above, any such waiver shall not otherwise affect the rights of the Town to use the Field according to this Easement.

6. No Assignment by the Town. The rights and responsibilities accruing to the Town hereunder shall forever inure to the benefit of and shall be binding upon the Town and Belmont Day, respectively. The Town may not assign or otherwise share its rights and responsibilities with any other organizations without the prior written consent of Belmont Day in each instance, which consent may be withheld in the sole discretion of Belmont Day. Notwithstanding the foregoing, the Town may permit Belmont Soccer Association, Inc., or such other private not-for-profit organization as then shall be the primary organization overseeing youth soccer in Belmont, to use the Field on the terms stated herein, provided that such organization must in the same season be permitted by the Town to use the public school fields for its soccer program, and provided further that permission to use the Field shall not in any way relieve the Town of its responsibilities hereunder.

7. Notices. Any notice, demand or other communication required or permitted under this agreement shall be deemed sufficient if delivered by hand, mailed postage prepaid by certified mail, return receipt requested, addressed as follows:

To the Town:           Town Administrator  
                              Town of Belmont  
                              455 Concord Avenue  
                              Belmont, MA 02478

With a copy to:       Robert J. Morrissey, Esq.  
                              Town Counsel  
                              Morrissey, Hawkins & Lynch  
                              Two International Place  
                              Boston, MA 02110

To Belmont Day:       Belmont Day School  
                              55 Day School Lane  
                              Belmont, MA 02478  
                              Attention: Head of School

With a copy to:        Andrew Troop, Esq.  
                             Hutchins, Wheeler & Dittmar  
                             101 Federal Street  
                             Boston, MA 02110

Changes to the Notice information contained herein may be made by written notice.

8.     Provisions to Run with the Land. The rights, liabilities, agreements and obligations set forth herein shall forever run with the property described in Exhibit A and shall be binding upon Belmont Day, its heirs, executors, administrators, successors and assigns.

9.     Effective Date. This Easement shall take effect upon the conveyance of the Field from McLean to Belmont Day. This Easement shall be recorded according to the provisions of Paragraph 10 herein; however, the failure of any party to so record this Easement shall not affect its validity.

10.   Recordation; Incorporation. Belmont Day shall record and/or register this Easement with the Middlesex Registry of Deeds and/or Land Registration Office simultaneously with the recording of the deed of conveyance of the Field from McLean to Belmont Day, or in any event, within thirty (30) days of the date of such conveyance. Proof of such recordation shall be provided to the Town.

11.   Term, Amendment and Release. This Easement shall run in perpetuity and may only be amended or released upon the mutual written agreement of the Town and Belmont Day. Any such amendment or release shall be recorded and/or registered with the Middlesex Registry of Deeds and/or Land Registration Office.

12.   Severability. If any court or other tribunal determines that any provision of this instrument is illegal, invalid or unenforceable under any law applicable thereto, such provision shall be deemed to have been modified automatically to conform to the requirements for legality, validity and enforceability as determined by such court or tribunal. In the event the provision invalidated cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

13.   Massachusetts Law. This agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts.



WITNESS the execution hereof under seal this 5<sup>th</sup> day of February, 2001.

BELMONT DAY SCHOOL, INC.

BY: Lena L. Lema  
Its Head of School

TOWN OF BELMONT

William P. Brown  
Adm. U. Brown  
BY: William P. Brown  
Its BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

February 5, 2001

Then personally appeared the above-named Lena L. Lema,  
as aforesaid, known to me to be the person described in and  
who executed the foregoing instrument, and acknowledged the same to be the free act and deed  
of said Lena L. Lema, before me,

William A. Keefe  
Notary Public  
My Commission Expires:  
July 26, 2007

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

February 5, 2001

Then personally appeared the above-named Board of Selectmen,  
as aforesaid, known to me to be the persons described in and  
who executed the foregoing instrument, and acknowledged the same to be the free act and deed  
of said Board, before me,

William A. Keefe  
Notary Public  
My Commission Expires:  
July 26, 2007

ATTACHMENT K  
CEMETERY AGREEMENT

This Agreement is entered into by and among the Cemetery Commission of the Town of Belmont ("Commission"), the Board of Selectmen of the Town of Belmont and McLean Hospital Corporation.

For valuable consideration received, the parties agree as follows:

1. No use of the property for municipal cemetery purposes, no construction on the property for such purposes and no alteration of the property for such purposes shall occur except in accordance with the following conditions:
  - A. The first phase of development for cemetery use will occupy 3-4 acres, leaving the remaining property in a natural state;
  - B. The Commission will pursue a master design plan for the entire cemetery site. The development of future phases will be left to a vote of a future Town Meeting to appropriate funding for development. Future development must follow the master plan or be less invasive than the master plan. The development of the master plan design will be accomplished as a public-participation process;
  - C. The portion of the cemetery remaining in a natural state will be managed with the assistance of the entity responsible for management of the open space, using cemetery labor as required;
  - D. The design will be compatible with its surrounding environment, using flat markers and using compatible flora. The borders of the cemetery will be consistent with the existing markers on the property, i.e., preferably stone walls if possible. The design will also take into consideration any significant historic or archeological features of the property where feasible;
  - E. The Pine Allee on Concord Avenue will remain in a natural state;
  - F. Access along an approved pathway for pedestrians with leashed dogs will be arranged as part of master planning considering neighbors' comments about location;
  - G. Adequate buffers along Concord Avenue and Day School property will be included in design;
  - H. The last parcel to be developed will be the portion of the site closest to the vernal pool adjacent to the site;
  - I. Building uses will be limited to a cemetery office, cemetery maintenance and garaging of cemetery vehicles. Buildings at the site will be limited in size so as to be no larger than those at the existing Belmont Cemetery (although they may be combined into one structure);
  - J. Roads within the cemetery will be limited to 16 feet in width; and
  - K. Parking spaces will be limited to seven (four employee spaces, and three visitor spaces for funeral directors, religious officials, and family, including one handicapped space).
2. No use of, construction on or alteration of the property for municipal cemetery purposes shall occur until the approval of this Agreement by majority vote at a Town Meeting. No modification of

this Agreement, including without limitation any modification to the conditions set forth in Section 1, shall be effective until the approval of such modification by McLean and by majority vote at a Town Meeting.

Town of Belmont

By: \_\_\_\_\_  
Selectman

By: \_\_\_\_\_  
Cemetery Commissioner

By: \_\_\_\_\_  
Selectman

By: \_\_\_\_\_  
Cemetery Commissioner

By: \_\_\_\_\_  
Selectman

By: \_\_\_\_\_  
Cemetery Commissioner

The McLean Hospital Corporation

By: \_\_\_\_\_

Its Duly Authorized \_\_\_\_\_

ATTACHMENT L

AGREEMENT

This Agreement dated as of November 22, 1999 is entered into by and between the Town of Belmont, acting by and through its Board of Selectmen ("Belmont"), and Eric and Helga Cosman ("Cosman").

For valuable consideration received, Belmont and Cosman agree as follows:

1. Belmont agrees to sell and Cosman agrees to buy a certain parcel of land (the "Premises") shown as "Proposed Private Open Space Lot" on Exhibit A attached hereto;
2. Belmont's obligations hereunder shall become effective if and only if Belmont shall acquire the Premises as a portion of conveyance of a larger parcel from McLean Hospital in accordance with a certain Memorandum of Agreement between Belmont and McLean Hospital of even date herewith;
3. The closing hereunder shall take place on a date set by Belmont within six months following the acquisition by Belmont of the Premises pursuant to the Memorandum of Agreement;
4. The Premises shall be conveyed subject to a Conservation Restriction in the form attached to the Memorandum of Agreement;
5. The purchase price for the Premises shall be \$100,000, payable by Cosman at the closing by bank or certified check;
6. Any survey, title or other transaction costs (including deed stamps) shall be paid by Cosman; and
7. Belmont shall use the purchase proceeds to fund restoration and/or maintenance costs of the remaining land obtained pursuant to the Memorandum of Agreement.

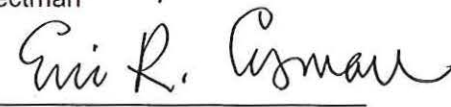
Executed under seal as of the date first written above.

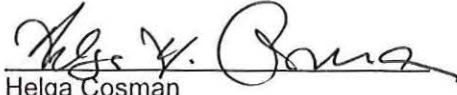
Town of Belmont

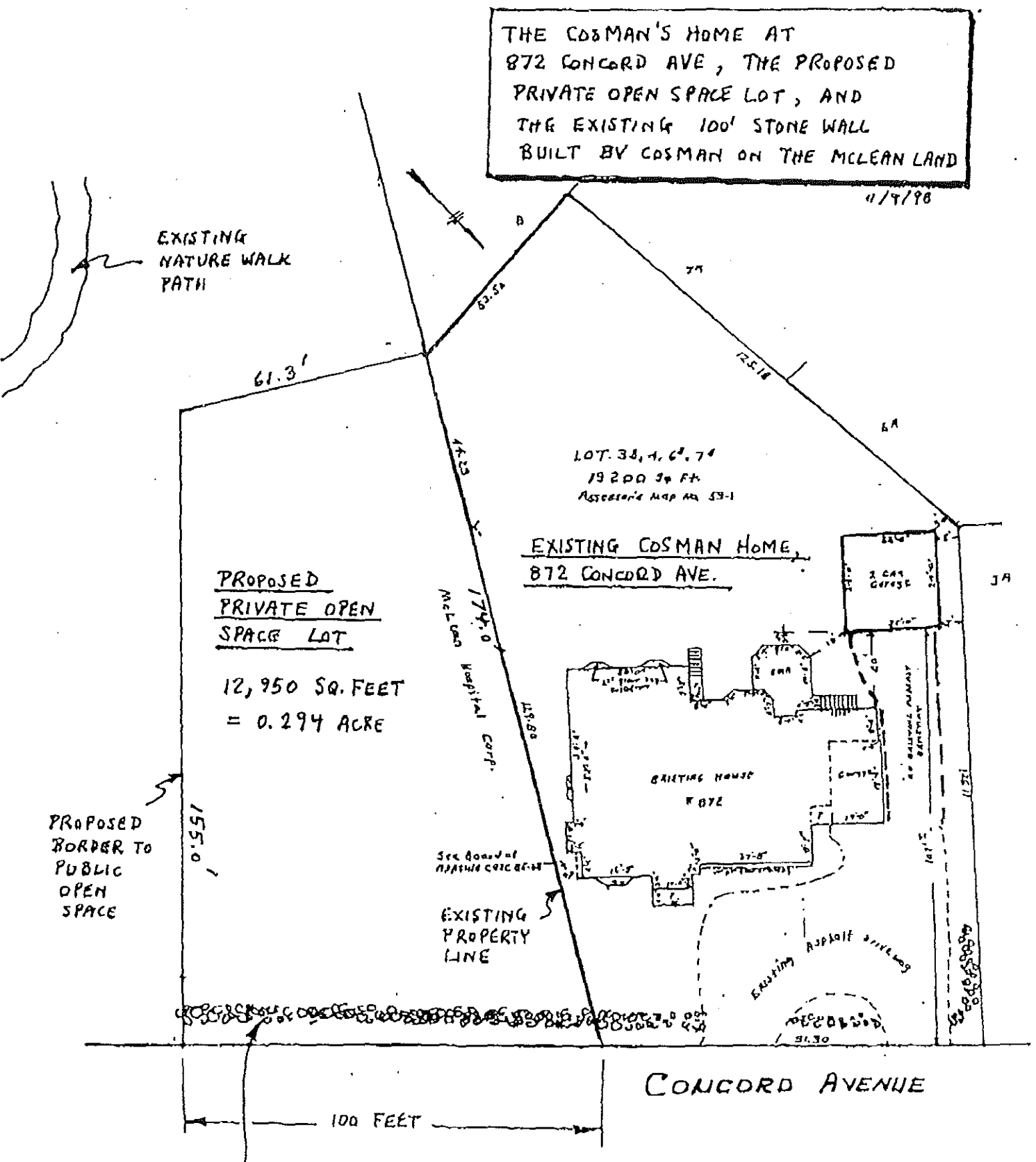
By:   
Selectman

By:   
Selectman

By:   
Selectman

  
Eric Cosman

  
Helga Cosman



HEAVY STONE WALL BUILT BY COSMANS ON MCLEAN LAND UNDER LICENSE AGREEMENT. TO PROTECT AGAINST CAR CRASHES



ATTACHMENT M

NOTICE OF AGREEMENT

This Notice of Agreement dated as of November 22, 1999 is entered into by The McLean Hospital Corporation, with an address of 115 Mill Street, Belmont, Massachusetts ("McLean").

Notice is hereby given that McLean and the Town of Belmont have entered into a Memorandum of Agreement of even date herewith, which Memorandum contains, among other things, certain restrictions upon the use of the property owned by McLean within Belmont, Massachusetts, and more particularly described in Exhibit A attached hereto.

A copy of the Memorandum of Agreement is available for inspection in the office of the Town Clerk of the Town of Belmont.

Executed under seal as of the date first written above.

THE McLEAN HOSPITAL CORPORATION

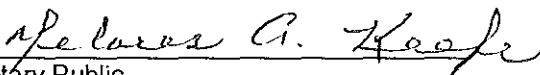
By: 

Its Duly Authorized President

COMMONWEALTH OF MASSACHUSETTS  
MIDDLESEX, ss.

November 22, 1999

Then personally appeared the above-named Bruce Cohen and acknowledged the foregoing instrument to be (his/her) free act and deed, and the free act and deed duly authorized of The McLean Hospital Corporation, before me.

  
Notary Public

My Commission Expires:

August 4, 2000

## EXHIBIT A

Those 16 parcels of land located in Belmont, Middlesex County, Massachusetts described in a deed from the Massachusetts General Hospital to The McLean Hospital Corporation dated September 30, 1980 and recorded in the Middlesex County (S.D.) Registry of Deeds at Book 14084, Page 272, and being all the land owned by said The McLean Hospital Corporation in the Town of Belmont.